

Kingsbury Plantation Zoning Ordinance

Enacted: _____

Amended: _____

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1: General Provisions

1.1 Legal Authority

This Ordinance has been prepared and enacted in accordance with the provisions of 30-A M.R.S.A., §3001, Home Rule; and pursuant to the authority and limitations of 30-A, M.R.S.A., §§4401-4407, Subdivision Law; and 38 M.R.S.A., §435-449, Mandatory Shoreland Zoning.

Kingsbury Plantation has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to 30-A M.R.S.A., §§3001-3007, §4352, §§4401-4407; and 38 M.R.S.A., §440. The “Floodplain Management Ordinance for Kingsbury Plantation” is contained in Appendix A to this “Kingsbury Plantation Zoning Ordinance” and is a part of this Ordinance.

1.2 Purpose

1.2.1 The purpose of this Ordinance is to promote and protect the health, welfare and safety of Kingsbury Plantation (hereinafter referred to as “the Plantation”) and its residents through a system of land use regulation that achieves the following:

- A. Ensure the design, layout, construction and maintenance of land, improvements and structures consistent with public health and safety;
- B. Provide for review and permitting of construction, subdivision, and other development proposals with the potential to impact the Plantation;
- C. Assure that new development meets the goals and conforms to the policies of the Kingsbury Comprehensive Plan;
- D. Conserve the Plantation’s natural beauty and visual character by ensuring the adequate design, layout, construction and maintenance of land, structures, signs, and other improvements;
- E. Accommodate change and growth in a manner that will prevent disruptions in community life and in the provision of town services;
- F. Protect the Plantation’s natural resources including but not limited to ponds, streams, wetlands, shoreland areas, floodplains, ground water, and wildlife habitat from potential negative impacts of land development;
- G. Provide the applicant, residents, and local government with clear procedures and requirements for the review of applications for development; and
- H. Otherwise provide for the protection of the public health, safety, and general welfare in the management of land uses.

1.2.2 Portions of this Ordinance are intended to comply with Guidelines for Municipal Shoreland Zoning Ordinances (38 M.R.S., Ch. 1000). *The purposes of those guidelines are: to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated*

erosion; to protect archaeological and historic resources; to protect commercial fishing; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

1.3 Legal Provisions

1.3.1 Conflict with Other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by Kingsbury Plantation, the more restrictive provision shall control.

1.3.2 Validity and Severability

Should any provision or section of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other provision or section of this Ordinance.

1.3.3 Effective Date

This Ordinance shall become effective upon the date specified by the Land Use Planning Commission in its approval of Kingsbury Plantation's withdrawal petition.

Shoreland zoning provisions shall not become effective unless approved by the Commissioner of the Department of Environmental Protection (Commissioner). A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Plantation Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. Any application for a permit submitted to the Plantation within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

As of the effective date of this Ordinance, Kingsbury Plantation has the sole authority for enforcement, inspection, and penalties for violations of permits issued by the Land Use Planning Commission to property owners within the boundaries of Kingsbury Plantation prior to the effective date of this Ordinance.

1.4 Amendments

This Ordinance, including the Official Plantation Map, may be amended by a majority vote of the Plantation at a Town Meeting in accordance with statutory procedures specified for the enactment of ordinances.

1.4.1 Any proposed amendment shall be presented at a public hearing of the Planning Board.

The public hearing shall be advertised by a public notice posted in the Town Office at least thirteen (13) days prior to the date of the hearing, and by two notices in at least one newspaper of general circulation, the first to appear at least twelve (12) days prior to the date of the hearing; the second to appear at least seven (7) days prior.

- 1.4.2 A proposed amendment shall be placed on the warrant of the Town Meeting by a majority vote of the Board of Assessors, upon the recommendation of the Planning Board or upon submission of a valid petition signed by a minimum of ten (10) percent of the number of Kingsbury Plantation residents voting in the most recent gubernatorial election.
- 1.4.3 A proposed amendment may not be further amended on the floor of a Town Meeting.
- 1.4.4 *For amendments involving the shoreland zoning provisions of this ordinance, a copy, attested and signed by the Plantation Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Plantation, and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on an amendment within forty-five (45) days of his/her receipt of the amendment, the amendment shall be automatically approved. Any application for a permit submitted to the Plantation within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.*

1.5 Availability

A certified copy of this Ordinance and the Official Plantation Map shall be filed with the Plantation Clerk and shall be accessible to any member of the public at reasonable times. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

2: Administration and Operation of this Ordinance

2.1 Applicability

2.1.1 This Ordinance shall apply to land uses and development within Kingsbury Plantation. All divisions of land, and buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved in to the Plantation as well as land use activities within shoreland zones shall be in conformance with the provisions of this Ordinance.

2.1.2 Shoreland Zones

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the

- normal high-water line of any great pond or river, or
- upland edge of a freshwater wetland, and
- all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

All projects must be in compliance with the Natural Resources Protection Act, (NRPA). Contact the Maine Department of Environmental Protection Bangor Office at 207-941-4570, or at 106 Hogan Road, Suite 6, Bangor, Maine 04401 for all information concerning NRPA. See note at the end of Table 1, Section 3.2.1; and Section 4.1.2,D.

***NOTE:** Pursuant to 38 M.R.S.A. section 440, municipalities may extend or adopt zoning controls beyond the limits established in Section 2.1, above, in order to protect the public health, safety, and welfare and to avoid problems associated with floodplain development.*

2.1.3 Except as provided in Section 2.1.4, below, this Ordinance does not regulate routine maintenance and minor improvements to residential or commercial property. “Minor improvements” means interior or exterior renovation that does not create additional floor area or lot coverage or add to the height of the structure.

2.1.4 Floodplain Management

Within Areas of Special Flood Hazard, all new construction and substantial improvements, as defined, will require a permit in accordance with Appendix A of this Ordinance.

2.2 Regulatory Coordination

The issuance of a permit or approval under the terms of this Ordinance does not relieve the developer of the obligation to obtain permits under other federal, state, or local authority. To aid its review of permit applications, the Planning Board may require copies of federal or state permits or applications.

2.3 Development Fees

- 2.3.1 The Board of Assessors of Kingsbury Plantation is hereby authorized to determine the amounts of fees to be assessed for permits, applications and related activities. A fee schedule shall be published and attached to all applications for development under this Ordinance.
- 2.3.2 The Board of Assessors may amend the fee schedule from time to time as deemed necessary upon the advice of the Planning Board. A public hearing shall be held prior to the Board vote to amend the fee schedule. Notice of the public hearing shall be posted in the town office a minimum of fourteen (14) prior to the date of the hearing.
- 2.3.3 The initial fee schedule shall become effective on the day it is approved. Amended fee schedules shall become effective thirty (30) days after the date of approval.
- 2.3.4 The purpose of the fees to be collected is so that the applicant will bear the cost of development review. The amounts of fees shall be set to reasonably relate to the actual cost of review except that no fee shall be charged for a permit for which the total cost of construction does not exceed \$5,000. Fees shall be set on a sliding scale to reflect the complexity of the review and administrative services expected to be incurred.
- 2.3.5 The fee schedule shall include provisions for a technical review fee, to be administered under the following provisions:
 - A. A technical review fee may be required by the Planning Board when it determines that an application is likely to require the services of professionals not employed by the Plantation. This may include, but not be limited to, engineering, scientific, or legal services. The amount of the fee shall be set by the Planning Board, based on a reasonable estimate of the cost of services required.
 - B. This fee must be paid to Kingsbury Plantation and must be deposited in a Planning Board Trust Account, which shall be separate and distinct from all other Plantation accounts. The application will be considered incomplete until this fee is paid. If the cost of services exceeds the amount available, the Board shall request additional payment from the applicant, and review of the permit shall be suspended until payment has been made.
 - C. Technical review fees may be used to pay for reasonable costs incurred by the Planning Board, at its discretion, which relate directly to the review of the application. Fees shall not be used by the Planning Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Planning Board, which do not relate directly to the applicant's project.
 - D. The Plantation shall refund all the remaining monies, including accrued interest, in the account after the payment of all costs and services related to this review. Refund of remaining monies shall be made no later than ninety (90) days after

final action on the application. Such refund shall be accompanied by a final accounting of expenditures from the fund.

2.4 Violations and Enforcement of this Ordinance

***Nuisances:** Any violation of this Ordinance shall be deemed to be a nuisance.*

2.4.1 *It shall be the duty of the Code Enforcement Officer (CEO) to enforce the provisions of this Ordinance.*

2.4.2 *The Code Enforcement Officer, in the discharge of official duties, and upon proper identification, shall have authority to enter any building, structure or premises at reasonable hours to inspect for compliance with this Ordinance. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.*

2.4.3 *If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.*

2.4.4 Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Board of Assessors, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of Kingsbury Plantation.

2.4.5 Administrative Consent Agreements

The Board of Assessors, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

2.4.6 **Fines**

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. §4452.

Each day such violation is permitted to exist after notification shall constitute a separate offense. All fines shall be paid to Kingsbury Plantation. Such persons shall also be liable for court costs and reasonable attorney fees incurred by the Plantation.

NOTE: *Current penalties include fines of not less than \$100 nor more than \$2,500 per violation for each day that the violation continues. However, in a Resource Protection district the maximum penalty is increased to \$5,000 (38 M.R.S.A. §4452).*

2.5 Code Enforcement Officer Powers and Duties

2.5.1 **Code Enforcement Officer**

The Code Enforcement Officer shall be appointed or reappointed annually by July 1st by the Board of Assessors. During any temporary absence or disability of the CEO, the Board of Assessors shall designate an acting CEO.

2.5.2 **Powers and Duties**

The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

The Code Enforcement Officer shall have the following duties:

- A. Issue permits as authorized by this Ordinance;
- B. Advise the Planning Board regarding technical aspects of applications for which it has review responsibility;
- C. Inspect sites where permits have been issued to insure compliance with this Ordinance;
- D. Investigate complaints and reported violations;
- E. Enforce the provisions of this Ordinance;
- F. Keep written inspections reports and thorough records;
- G. Participate in appeals procedures;
- H. Appear in court when necessary;
- I. Confer with citizens upon request; and
- J. Attend meetings of the Planning Board.

2.6 Planning Board Powers and Duties

2.6.1 *In accordance with the provisions of State law, this Ordinance authorizes the establishment of the Kingsbury Plantation Planning Board.*

- A. The Planning Board will consist of three (3) members and two (2) associate members. Two (2) Board members and one (1) associate member shall be Plantation residents, the remaining members may be seasonal residents of the Plantation or residents from the surrounding communities who are regularly engaged in Plantation recreational activities.
 - B. The term of appointment shall be for four (4) years, with the initial appointment of one (1) member and one (1) associate member being for two (2) years. If a member or associate member shall resign before his or her term expires, the Board of Assessors shall appoint a new member to fill the unexpired term.
 - C. The Planning Board shall annually elect a chairperson and a vice-chair/secretary from among its membership.
 - D. No meeting of the Planning Board shall be held without a quorum, consisting of at least three (3) members. Any decision of the Planning Board shall be by a majority vote of those present and voting.
 - E. The vice-chair/secretary of the Planning Board shall be responsible for seeing that a record is kept of all meetings, decisions, transactions, correspondence, and other determinations. All records are public information and may be inspected by the public during the hours that the Plantation is normally open for business.
- 2.6.2 The Planning Board shall perform such duties and exercise such powers as are authorized by this Ordinance. The Planning Board may also engage in such studies and plans as are authorized by the Board of Assessors or Town Meeting.
- 2.6.3 No Planning Board member shall vote or participate in deliberations on any application in which he or she has a conflict of interest or appearance of a conflict of interest. If a member does not recuse himself or herself voluntarily and the issue is raised, the member's participation shall be determined by a majority vote of the board, excluding that member who is being challenged.
- 2.6.4 The Planning Board shall from time to time review and make recommendations to the Board of Assessors concerning the operation of this ordinance, proposed amendments or fees to be collected.
- 2.6.5 The Planning Board is authorized to adopt such rules and procedures as will contribute to the efficient administration of their duties under this ordinance.

2.7 Board of Appeals Powers and Duties

- 2.7.1 This Ordinance authorizes the creation of the Kingsbury Plantation Board of Appeals, consisting of three (3) members in accordance with the provisions of State law, 30-A M.R.S.A., §2691, to hear and decide administrative and variance appeals. The organization and procedures of the Board of Appeals shall be as provided in 30-A M.R.S.A., §2691(2) and (3). A minimum of one (1) member of the Board of Appeals must be a resident of the Plantation; two (2) members may be seasonal residents.

Neither a member of the Planning Board nor a spouse of a Planning Board member shall be appointed to the Board of Appeals.

2.7.2 Administrative Appeals

- A. *The Board of Appeals shall hear and decide administrative appeals, on a de novo basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance.*
- B. *The Board of Appeals shall hear and authorize variances upon appeal, within the limitations set forth in this Ordinance.*
- C. In its consideration of an administrative appeal, the Board of Appeals shall hear and act only on evidence already presented at the administrative level. No new evidence shall be considered.
- D. When errors of administrative procedure or interpretation are found by the Board of Appeals, the case shall be remanded to the Planning Board or Code Enforcement Officer for reconsideration consistent with the Board of Appeals decision.
- E. *Any order, requirement, decision or determination made, or failure to act, in the enforcement of this Ordinance is not appealable to the Board of Appeals.*

2.7.3 Variance Appeals

- A. *The Board of Appeals may permit variances only under the following conditions:*
 - (1) *Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.*
 - (2) *Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.*
 - (3) *Except as provided in subsection B, below, the Board of Appeals shall not grant a variance unless it finds that the proposed structure or use would meet the provisions of Sections 3, 6 and 7, as applicable, except for the specific provision which has created the non-conformity and from which relief is sought; and the strict application of the terms of this Ordinance would result in “undue hardship”, as stated below:*
 - (a) *The land in question cannot yield a reasonable return unless a variance is granted;*
 - (b) *The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;*

- (c) *The granting of a variance will not alter the essential character of the locality; and*
 - (d) *The hardship is not the result of action taken by the applicant or a prior owner.*
- B. *Notwithstanding Section 2.7.3,A,3, above, the Board of Appeals, or the Code Enforcement Officer if authorized in accordance with 30-A M.R.S.A. §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board of Appeals shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board of Appeals may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 2.7.3,D and 2.7.7,B,4, below.*
- C. *The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.*
- D. *A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.*

2.7.4 Timing of Appeals

- A. *An administrative or variance appeal may be taken to the Board of Appeals by an applicant, owner, or aggrieved party. Such appeal shall be taken within thirty (30) days of the date of the action being appealed, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.*
- B. *Any applicant, owner, or aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within thirty (30) days from the date of any decision of the Board of Appeals or as otherwise allowed by the Superior Court.*

2.7.5 Administrative Appeals of a Code Enforcement Officer Decision

When the Board of Appeals reviews a decision of the Code Enforcement Officer, the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

2.7.6 Administrative Appeals of a Planning Board Decision

When the Board of Appeals hears a decision of the Planning Board, it shall hold a de novo hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

2.7.7 Appeal Procedure

A. Making an Appeal

- (1) *An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 2.7.2,A, above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.*
- (2) *Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:*
 - (a) *A concise written statement indicating what relief is requested and why the appeal or variance should be granted.*
 - (b) *A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.*
- (3) *Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.*
- (4) *The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.*

B. Decision by Board of Appeals

- (1) *A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.*
- (2) *The person filing the appeal shall have the burden of proof.*
- (3) *The Board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing and shall issue a written decision on all appeals.*
- (4) *The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant, and to the Department of Environmental Protection when the decision affects the shoreland zone, within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.*

2.7.8 Appeal to Superior Court

Except as provided by 30-A M.R.S.A. §2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

2.7.9 Reconsideration

In accordance with 30-A M.R.S.A. §2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

3: Zoning District Definitions and Requirements

3.1 Land Use Districts Established

3.1.1 Official Plantation Map

The zoning districts referenced in this Ordinance are located and bounded as shown on the Official Plantation Map, which is hereby made a part of this Ordinance.

A. Certification of Official Plantation Map

The Official Plantation Map (hereinafter referred to as the "Map") shall be certified by the attested signature of the Plantation Clerk under the following words: "This is the Official Map of the Zoning Ordinance of Kingsbury Plantation" and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Plantation Clerk shall be the custodian of the map.

The areas to which the Shoreland Zoning Ordinance is applicable are hereby divided into the following districts as shown on the Official Plantation Map(s) which is (are) made a part of this Ordinance: Resource Protection, Limited Residential, and Stream Protection.

B. Scale of Map

The Official Plantation Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

NOTE: *Because of map scale or other reason, a municipality may have a series of maps depicting its shoreland zone.*

C. Changes to the Official Plantation Map

- (1) If amendments are made in the district boundaries that are not within the shoreland zone, or other matter portrayed on the Official Plantation Map, such changes shall be made on the Map within fourteen (14) days after the amendment has been adopted together with an entry on the Map as follows: "On [date], the Town Meeting enacted the following change: [insert brief description of the nature of change]." Immediately beneath the entry the Plantation Clerk shall place his or her signature.
- (2) *If amendments are made in the district boundaries of the Resource Protection, Limited Residential, or Stream Protection Districts, or other matter portrayed on the Official Plantation Map, such changes shall be made on the Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.*

D. Replacement of Official Plantation Map

In the event that the Official Plantation Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions the Board of Assessors shall authorize re-creation of the map as nearly as possible to the most recent official version.

3.1.2 Interpretation of District Boundaries

Unless otherwise set forth on the Official Plantation Map, district boundary lines are property lines, or measured from the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the reference points, e.g. edge of wetland, waterbody or road, shall be as located on the face of the earth. In all cases, the Board of Appeals shall be the final authority as to location.

3.1.3 Land Use Requirements

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

3.1.4 District Descriptions

A. Rural District

The Rural District contains all lands not included in other defined districts. The Rural District is intended for low-intensity development, forest management, agriculture, and protection of critical natural resources.

B. Limited Residential (LR) District

The Limited Residential District includes those areas within the shoreland zone that are suitable for residential and recreational development. It includes areas other than those in the Resource Protection District or Stream Protection District.

C. Stream Protection (SP) District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

D. **Resource Protection (RP) District**

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This District shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed need not be included within the Resource Protection District. As required by the Mandatory Shoreland Zoning Act, 38 M.R.S.A., §§435-449, these include:

(1) **IWWH**

Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W), as depicted on the Official Plantation Map. These areas are generally depicted on a Geographic Information System (GIS) data layer.

(2) **Floodplains**

Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100-year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

(3) **Steep Slopes**

Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.

(4) **Additional Wetlands**

Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

NOTE: *These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.*

(5) **Land Along Rivers**

Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

(6) **Wildlife Habitat**

Other important wildlife habitat;

(7) **Scenic and Esthetic Sites**

Natural sites of significant scenic or esthetic value;

(8) **Natural Areas of Significance**

Areas designated by federal, state or municipal governments as natural areas of significance to be protected from development; and

(9) **Other Significant Areas**

Other significant areas which should be included in this district to fulfill the purposes of this Ordinance, such as, but not limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the municipality after consultation with the Maine Historic Preservation Commission.

E. Wind Energy Generation Facility (WE) District

The purpose of the Wind Energy Facility District is to allow for development of grid-scale wind energy generation facilities. The Wind Energy Facility District includes all land, related structures, utilities, and connections associated with the conversion and delivery of energy, including but not limited to wind turbines, buildings and other structures, access roads, and generator lead lines. The WE District is an overlay district and may include areas also designated as Stream Protection (SP) or Resource Protection (RP) Districts. In cases where the WE District includes areas that are also included within the SP or RP Districts, the Planning Board will designate the land area for inclusion in that major district which best achieves the purpose and intent of this ordinance.

3.2 District Requirements

3.2.1 Permitted Uses

All land use activities, as indicated in Table 1, Table of Regulated Land Uses, shall conform with all of the applicable land use standards in Sections 3.2, 6, and 7. The district designation for a particular site shall be determined from the Official Plantation Zoning Map.

Key to Table 1		District Designations	
<i>Yes</i>	<i>Allowed. No permit required but the use must comply with all applicable land use standards.</i>	Rural	Rural
<i>No</i>	<i>Prohibited</i>	RP	Resource Protection
<i>PB</i>	<i>Allowed with permit issued by the Planning Board</i>	LR	Limited Residential
<i>CEO</i>	<i>Allowed with permit issued by the Code Enforcement Officer</i>	SP	Stream Protection
<i>LPI</i>	<i>Allowed with permit issued by the Local Plumbing Inspector</i>	WE	Wind Energy Facility

TABLE 1: Table of Regulated Land Uses

	LAND USES	DISTRICTS				
		Rural	SP	RP	LR	WE
1	<i>Non-intensive recreational uses not requiring structures, such as hunting, fishing, and hiking</i>	Yes	Yes	Yes	Yes	Yes
2	<i>Motorized vehicular traffic on existing roads and trails</i>	Yes	Yes	Yes	Yes	Yes
3	<i>Clearing or removal of vegetation for approved construction and other allowed uses for activities other than timber harvesting (see Section 6.5.1)</i>	Yes	CEO	CEO ¹	Yes	PB
4	<i>Fire prevention activities</i>	Yes	Yes	Yes	Yes	Yes
5	<i>Wildlife management practices</i>	Yes	Yes	Yes	Yes	Yes
6	<i>Soil and water conservation practices</i>	Yes	Yes	Yes	Yes	Yes
7	<i>Mineral exploration (see Section 7.5.2)</i>	Yes	No	Yes ²	Yes ²	Yes
8	<i>Mineral extraction including sand and gravel extraction (see Section 7.5.1)</i>	PB	No	PB ³	PB	PB
9	<i>Surveying and resource analysis (see Section 4.1.2,B)</i>	Yes	Yes	Yes	Yes	Yes
10	<i>Emergency operations</i>	Yes	Yes	Yes	Yes	Yes
11	<i>Agriculture (see Section 7.2)</i>	Yes	Yes	PB	Yes	No
12	<i>Agricultural processing facility</i>	PB	No	No	No	No
13	<i>Aquaculture</i>	PB	PB	PB	PB	No
14	<i>Principal structures and uses and additions thereto:</i>					
	<i>A. One and two family residential, including driveways</i>	CEO	PB ⁴	PB ⁹	CEO	No
	<i>B. Multi-unit residential</i>	No	No	No	PB	No
	<i>C. Commercial</i>	No	No	No ¹⁰	No ¹⁰	No
	<i>D. Governmental and institutional</i>	PB	No	No	PB	No
	<i>E. Small non-residential facilities for educational, scientific, or nature interpretation purposes</i>	CEO	PB ⁴	PB	CEO	No
15	<i>Structures accessory to allowed uses (see Section 7.1)</i>	Yes ¹³	PB ⁴	PB	CEO	PB
16	<i>Conversions of seasonal residences to year-round residences</i>	LPI	LPI	LPI	LPI	n/a
17	<i>Home occupations (see Section 7.4)</i>	PB	PB	PB	PB	n/a
18	<i>Private sewage disposal systems for allowed uses</i>	LPI	LPI	LPI	LPI	n/a
19	<i>Essential services (see Section 7.10)</i>	PB	PB ⁶	PB ⁶	PB	PB
	<i>A. Roadside distribution lines (34.5kV and lower)</i>	Yes	CEO ⁶	CEO ⁶	Yes ¹²	PB
	<i>B. Non-roadside or cross-country distribution lines involving ten poles or less</i>	CEO	PB ⁶	PB ⁶	CEO	PB

TABLE 1: Table of Regulated Land Uses

	LAND USES	DISTRICTS				
		Rural	SP	RP	LR	WE
	<i>C. Non-roadside or cross-country distribution lines involving eleven or more poles</i>	PB	<i>PB</i> ⁶	<i>PB</i> ⁶	<i>PB</i>	PB
	<i>D. Other essential services</i>	PB	<i>PB</i> ⁶	<i>PB</i> ⁶	<i>PB</i>	PB
20	<i>Service drops, as defined, to allowed uses</i>	Yes	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	PB
21	Recreational lodging facility (see Section 7.6)					
	A. Primitive	CEO	CEO	No	CEO	No
	B. Small	PB	No	No	No	No
22	<i>Public and private recreational areas involving minimal structural development</i>	PB	<i>PB</i>	<i>PB</i>	<i>PB</i>	No
23	<i>Individual, private campsites</i> (see Section 7.6.5)	Yes	<i>CEO</i>	<i>CEO</i>	<i>CEO</i>	No
24	<i>Campgrounds</i> (see Section 7.6.4)	PB	<i>No</i>	<i>No</i> ⁷	<i>PB</i>	No
25	<i>Road and commercial driveway construction</i>	PB	<i>PB</i>	<i>No</i> ⁸	<i>PB</i>	PB
26	<i>Parking facilities</i>	PB	<i>No</i>	<i>No</i> ⁷	<i>PB</i>	PB
27	<i>Marinas and houseboats</i>	n/a	<i>PB</i>	<i>No</i>	<i>PB</i>	n/a
28	<i>Filling and earthmoving of < 10 cubic yards</i>	Yes	<i>CEO</i>	<i>CEO</i>	<i>Yes</i>	Yes
29	<i>Filling and earthmoving of => 10 cubic yards</i>	PB	<i>PB</i>	<i>PB</i>	<i>CEO</i>	CEO
30	<i>Signs meeting the provisions of Section 6.5.5</i>	Yes	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	Yes
31	<i>Uses similar to allowed uses</i>	Yes	<i>CEO</i>	<i>CEO</i>	<i>CEO</i>	Yes
32	<i>Uses similar to uses requiring a CEO permit</i>	CEO	<i>CEO</i>	<i>CEO</i>	<i>CEO</i>	PB
33	<i>Uses similar to uses requiring a PB permit</i>	PB	<i>PB</i>	<i>PB</i>	<i>PB</i>	PB
34	Wind Energy Generation Facility, including generator lead lines	No	No	No	No	PB

¹ In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

² Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³ In RP not allowed in areas so designated because of wildlife value.

⁴ Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁶ See further restrictions in Section 7.10.2.

⁷ Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁸ Except as provided in Section 6.3.1,H,6.

⁹ Single family residential structures may be allowed by special exception only according to the provisions of Section 4.3.6, Special Exceptions. Two-family residential structures are prohibited.

¹⁰ Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹² Permit not required but must file a written “notice of intent to construct” with CEO.

¹³ Permit not required only if the provisions of Section 7.1 are met. Otherwise, a CEO permit is required.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. §480-C, if the activity occurs in,

on, over or adjacent to any freshwater wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
 - B. Draining or otherwise dewatering;
 - C. Filling; or
 - D. Any construction or alteration of any permanent structure.
-

3.2.2 Dimensional Standards

NOTE: Municipalities should review the land use standards contained herein to determine whether they will result in a scale of development that is compatible with existing development or with the future desired scale of development. If not, more restrictive land use standards may be adopted by the municipality.

Numerical standards in this section cannot be waived. A person can get relief from dimensional standards only through obtaining a variance, as provided in Section 2.7.3.

A. General Standards in all Districts

All land use activities shall conform with the following provisions, if applicable.

- (1) *If more than one residential dwelling unit, principal governmental or institutional structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.*
- (2) *Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.*
- (3) **Minimum Lot Area**
 - (a) *Per dwelling unit: 40,000 square feet*
 - (b) *For Government and Institutional, per principal structure: 60,000 square feet*
 - (c) *For Public and Private Recreational Facilities: 40,000 square feet*
 - (d) *Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.*
 - (e) *The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.*
- (4) **Lot Configuration Ratio**

Not to exceed 5:1 length-to-width

(5) **Minimum Road Frontage**

- (a) 100 feet per dwelling unit for residential development
- (b) 200 feet for non-residential development
- (c) If a lot borders more than one road, the frontage requirement must be met on only one road.

(6) **Road and Property Line Setbacks**

- (a) 50 feet from the edge of a road (residential)
- (b) 75 feet from the edge of a road (non-residential)
- (c) 15 feet from all property lines (residential)
- (d) 25 feet from all property lines (non-residential)

(7) **Structure Height: 35 feet**

Principal or accessory structures and expansions of existing structures which are permitted in the Rural, Wind Energy Facility, Stream Protection, Resource Protection, and Limited Residential Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

NOTE: *A municipality may also exempt a cupola, dome, widow's walk or other similar feature from the height limits in accordance with 38 M.R.S.A. §439-A(9).*

(8) **Lot Coverage**

20 percent in all districts, except as provided in Section 3.2.2.A.6.a.

- (a) *Districts located adjacent to rivers that do not flow to great ponds, non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.*
- (b) *For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.*

- (9) *The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program*

and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

B. Dimensional Standards for all Districts – Shore Frontage and Shoreline Setbacks

(1) ***Minimum Shore Frontage***

Residential, per dwelling unit: 200 feet

Government and Institutional: 300 feet

Public and Private Recreational Facilities: 200 feet

(2) ***Minimum Shoreline Setbacks***

(a) ***Residential***

All new residential principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

NOTE: *The Natural Resources Protection Act, 38 M.R.S.A. §§480-A through 480-HH, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat".*

Permitting under the Natural Resources Protection Act for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

(b) ***Non-Residential***

All non-residential principal and accessory structures shall be set back at least one hundred fifty (150) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and one hundred (100) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or upland edges of wetlands.

(c) *In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified in subsection 2,a and b, above, shall apply.*

- (d) *The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.*
- (e) *On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.*

NOTE: *A municipality may within its ordinance, authorize the Planning Board to increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but are not limited to: areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.*

NOTE: *A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream are applicable.*

C. **Additional Dimensional Standards**

Specific uses are subject to additional dimensional standards, as specified in Section 7.

- (1) **Retaining walls** *that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:*
 - (a) *The site has been previously altered and an effective vegetated buffer does not exist;*
 - (b) *The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;*
 - (c) *The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;*

- (d) *The total height of the wall(s), in the aggregate, are no more than 24 inches;*
- (e) *Retaining walls are located outside of the 100-year floodplain on rivers, streams and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.*
- (f) *The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and*
- (g) *A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:*
 - (i) *The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;*
 - (ii) *Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;*
 - (iii) *Only native species may be used to establish the buffer area;*
 - (iv) *A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland; and*
 - (v) *A footpath not to exceed the standards in Section 6.5.1,B may traverse the buffer.*

NOTE: *If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body or tributary stream, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.*

- (2) *Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural*

Resources Protection Act, 38 M.R.S.A. §480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

3.3 Non-conformance

3.3.1 Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 3.3. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

NOTE: See Section 9 for the definitions of “non-conforming structures,” “non-conforming uses” and “non-conforming lots.”

3.3.2 General

A. Transfer of Ownership

Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

B. Repair and Maintenance

This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require. “Normal upkeep and maintenance” does not include reconstruction, replacement, or substantial improvement as provided in Section 3.3.3, D.

3.3.3 Non-conforming Structures

A. Expansions

All new principal and accessory structures, excluding functionally water-dependent uses, must meet the setback requirements contained in Section 3.2.2, B. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs 1 and 2, below.

- (1) *Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the*

principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

(2) *Notwithstanding paragraph 1, above, if a legally existing non-conforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable land use standards are met and the expansion is not otherwise prohibited by Section 3.3.3, A,1.*

(a) *The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.*

(3) *All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Sections 3.3.3, A, or 3.3.3, A,1, above.*

(a) *For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.*

(b) *For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 3.3.3,A,2,a and Section 3.3.3,A3,a, above.*

(c) *In addition to the limitations in subparagraphs a and b, for structures that are legally non-conforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a*

wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of a structure located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits above.

- (4) *An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary, and evidence of approval by the Plantation review authority.*

B. Foundations

Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section C, Relocation, below.

C. Relocation

- (1) *A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.*
- (2) *In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.*
- (3) *When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall*

require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 6.5.4. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.*
- (b) Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.*
- (4) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.*

D. Reconstruction, Replacement, Substantial Improvement

- (1) Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed or which requires substantial improvement, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal may be reconstructed, improved, or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with all water body, tributary stream or wetland setback requirements to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 3.3.3,A, above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or*

reconstruct a structure, vegetation shall be replanted in accordance with Section 3.3.3,C,3, above.

- (2) *Any non-conforming structure which is located less than the required setbacks from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.*
- (3) *In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 3.3.3,C above, the physical condition and type of foundation present, if any.*

E. Change of Use of a Nonconforming Structure

- (1) *The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.*
- (2) *In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing activities, and other functionally water-dependent uses.*

3.3.4 Nonconforming Uses

A. Expansions

Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 3.3.3,A, above.

B. Resumption Prohibited

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one-year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

C. Change of Use

An existing non-conforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 3.3.3,E, above.

3.3.5 Nonconforming Lots

A. Non-conforming Lots

A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

B. Contiguous Built Lots

- (1) *If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. §4807-A through §4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.*
- (2) *If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.*

C. Contiguous Lots - Vacant or Partially Built

- (1) *If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.*

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the adoption of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) *Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or*
- (b) *Any lots that do not meet the frontage and lot size requirements of Section 3.3.5,C,1,a are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.*

4: Review and Permitting

4.1 Permits Required

- 4.1.1 *After the effective date of this Ordinance no person shall, without first obtaining a permit as indicated in Table 1, Section 3.2, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.*
- 4.1.2 Permits will be issued either by the Code Enforcement Officer or by the Planning Board, according to the district and use, as provided in Table 1. Permits issued by the Code Enforcement Officer will follow the procedures in Section 4.2, below. Permits issued by the Planning Board will follow the procedures in Section 4.3, below.
- A. *A permit is not required for the replacement of an existing road culvert as long as:*
- (1) *The replacement culvert is not more than 25% longer than the culvert being replaced;*
 - (2) *The replacement culvert is not longer than 75 feet; and*
 - (3) *Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.*
- B. *A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.*
- C. *Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.*
- D. *If a permit from any regulatory authority other than Kingsbury Plantation is required for an activity or use, the Plantation's CEO or Planning Board must be notified, and a copy of the application must be submitted to the Plantation when the permit application is submitted to the other regulatory authority.*

4.2 Permit Procedure for Code Enforcement Officer Permits

- 4.2.1 *Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the Plantation, to the Code Enforcement Officer or his or her designated agent within the Plantation.*
- 4.2.2 *All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or*

- contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.*
- 4.2.3 *All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.*
- 4.2.4 *If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Licensed Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.*
- 4.2.5 *When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.*
- 4.2.6 *Within ten (10) working days of the date of receiving a written application, the Code Enforcement Officer shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.*
- 4.2.7 *The Code Enforcement Officer shall provide notice of the application by regular mail to all owners of property abutting the subject property. The CEO shall not make a decision on the application before seven (7) days have elapsed from the date landowner's notices were sent out.*
- 4.2.8 *The Code Enforcement Officer shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application.*
- 4.2.9 *The applicant shall have the burden of proving that the proposed land use activity is in conformity with the relevant criteria and standards of this Ordinance.*

4.3 Permit Procedure for Planning Board Permits

4.3.1 Pre-application Requirement

A pre-application (sketch plan) meeting is required of all prospective applicants for a Planning Board permit. The purpose of the pre-application process is for the prospective applicant to present general information regarding the proposal to the Planning Board for guidance before investing substantial time and money developing the application. This meeting provides the applicant information on procedures and requirements for submitting an application. The applicant may also use this opportunity to ask questions, seek waivers to submission requirements, and schedule a site inspection if warranted.

4.3.2 Pre-application Procedure

- A. The prospective applicant shall contact the Chair or Vice-chair of the Planning Board to request to be placed on the board's agenda. The pre-application will be placed on the next agenda, provided that the agenda has not already been posted.
- B. Prior to or at the meeting, the prospective applicant will provide a sketch plan of the proposed development indicating the proposed layout of roads and lot lines, anticipated location of proposed structures, and locations of existing features such as roads, easements, wetlands, and water bodies. The sketch plan does not need to be drawn to scale or be completed by a licensed professional.
- C. The Planning Board or Code Enforcement Officer may arrange with the applicant to perform an on-site inspection of the proposed site. The purpose of the on-site inspection is to verify information provided on the sketch plan and answer any questions the developer may have with regard to the site. If the Planning Board conducts the on-site inspection, it is to be considered a public meeting, with the date and time of the inspection posted at the town office in the same manner as other meetings.
- D. The Planning Board, at the meeting, will provide guidance to the prospective applicant as follows:
 - (1) A determination of the scope of the application, for example whether it contains roads or other improvements which may require detailed information, or whether the proposed development may need permits or review by state or federal agencies and the proposed timeline for approval;
 - (2) An expectation of whether additional submittals, for example traffic study, erosion control plan, or analysis of special historic or ecological resources, should be included;
 - (3) An estimate of the need for and amount of technical review fees, as provided in Section 2.3.5 of this Ordinance; and
 - (4) Action, if requested, concerning any waivers to submission requirements to be proposed by the applicant.

- E. The pre-application meeting shall not be considered the initiation of the review process for the purpose of bringing the application under protection of 1 M.R.S.A., §302.
- F. Following the pre-application meeting, the Planning Board shall establish a file for the proposed development. All information and submittals regarding the development shall be maintained in the file.

4.3.3 **Submission of Application**

- A. An applicant will submit six (6) copies of application materials as required in Section 4.5 of this Ordinance. The application must be accompanied by the signed official Application Form, available from the Code Enforcement Officer or Planning Board, and Development Fees as calculated using the Fee Schedule.
- B. The applicant will submit the application by mail or in person directly to the Code Enforcement Officer or Planning Board Chair. The Plantation will issue the applicant a dated receipt showing that the application has been received and fee paid.
- C. Within thirty (30) days after receiving the application, the Planning Board will meet to determine whether the application is complete. The applicant is not required to attend this meeting, but is advised that questions regarding adequacy of the contents may come up in the course of the meeting.
- D. *Within 35 days of the date of receiving a written application, the Planning Board shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.*
- E. If the application is incomplete, the applicant shall complete its submission to the Planning Board before it commences review. After the Planning Board receives the materials from the applicant, it has thirty (30) additional days to review this material before notifying the applicant whether the application is complete.
- F. *The Planning Board shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.*
- G. At the meeting at which it deems the application to be complete, the Planning Board may identify portions of the application that, due to its complexity, require assistance in review that is not ordinarily available to the Board. Examples include, but are not limited to, procedural questions, traffic analysis, noise, light, radio frequency propagation, archeological analysis, or scenic impact due to a grid-scale wind energy facility. The Planning Board is authorized to retain impartial professional assistance to advise it on these elements of the application, drawing from the technical review fee submitted by the applicant.

The scope of services of the expert retained for this purpose shall be strictly limited to analysis of the application in hand.

4.3.4 Permit Review Notification Procedures

- A. Upon determining that the application is complete, the Planning Board will place it on the agenda for the next regularly-scheduled meeting of the board, provided that adequate notice can be given.
- B. Abutters shall be notified by regular mail that an application has been filed. The notification shall identify the property to be developed, include a brief description of the type of development proposed, and provide the date, time, and place at which the Planning Board review will take place. Notification to abutters shall be mailed no less than fourteen (14) days before the scheduled date of review.
- C. Notice of the date, time, and place of the pending review shall be posted on the Plantation's community bulletin board and the Plantation's website. The date of the posting must be at least fourteen (14) days before the scheduled date of review.
- D. If any portion of the property to be developed crosses a Plantation boundary, notice shall be sent to the clerk and planning board of the affected town, or to the Land Use Planning Commission as appropriate, providing the date, time, and place of review. The Planning Board shall offer to conduct a joint review with the planning board of the affected town.
- E. A copy of the application shall be available for public viewing.

4.3.5 Review and Decision Procedure

- A. All Planning Board discussion of the application shall be conducted in open, public session. The conduct of the meeting shall be as follows:
 - (1) The applicant or his/her representative is required to attend. He or she shall give an oral presentation concerning the application.
 - (2) Members of the public who wish to may speak for, against, or concerning the application. Written comment will also be accepted and read into the record. The applicant may respond to questions if permitted by the Chairman of the Planning Board.
 - (3) The Planning Board will act on any request by the applicant to modify performance standards.
 - (4) The Planning Board will engage in deliberations concerning the application. The applicant and members of the public may participate during this period only at the discretion of the Chairman of the Planning Board.
 - (5) The Planning Board will make findings of fact and conclusions of law and shall vote to approve, conditionally approve, or deny the application.
- B. The Planning Board is not required to complete review of the application in one meeting. The Planning Board may defer any portion of the decision-making

process to a subsequent meeting. The Planning Board shall, within sixty (60) days of determining it has received a complete application or within any other time limit that is otherwise mutually agreed to by the applicant and the Planning Board, issue a written decision to either approve the application; approve the application with conditions; or deny the application.

- C. The Planning Board shall base its decision on the following:
- (1) For subdivisions, compliance with the review criteria contained in 30-A M.R.S.A. §4404 (see Section 5.3 of this Ordinance).
 - (2) For land use permits, compliance with the criteria of Section 5.2 and the applicable standards of Sections 6 and 7 of this Ordinance.
 - (3) For permits to be issued in the Resource Protection, Stream Protection, or Limited Residential Districts, compliance with the criteria of Sections 5.2 and 5.4 and the applicable standards of Sections 6 and 7 of this Ordinance.
- D. *After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:*
- (1) *Will maintain safe and healthful conditions;*
 - (2) *Will not result in water pollution, erosion, or sedimentation to surface waters;*
 - (3) *Will adequately provide for the disposal of all wastewater;*
 - (4) *Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;*
 - (5) *Will conserve shore cover and visual, as well as actual, points of access to inland waters;*
 - (6) *Will protect archaeological and historic resources as designated in the comprehensive plan;*
 - (7) *Will avoid problems associated with floodplain development and use; and*
 - (8) *Is in conformance with the applicable provisions of Sections 3.2 and 3.3; Section 6, General Land Use Standards; and Section 7, Activity-specific Standards.*
- E. *If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the Plantation.*

4.3.6 **Special Exceptions**

In addition to the criteria specified in Section 4.3.5, above, excepting structure setback requirements, the Planning Board may approve a permit for a single-family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- A. *There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.*
- B. *The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.*
- C. *All proposed buildings, sewage disposal systems and other improvements are:*
 - (1) *Located on natural ground slopes of less than 20%; and*
 - (2) *Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.*
If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.
- D. *The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.*
- E. *All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.*

4.3.7 Provisions for Two-stage Review

A. Conditional Preliminary Approval

- (1) The Planning Board is authorized to grant approval of a permit application conditional on provision by the applicant of additional information. The form of information is generally, but not exclusively, of two types:
 - (a) Engineering information, such as final road or stormwater design or the survey and setting of lot boundary markers; and
 - (b) Administrative information, such as pending permit approvals from State or Federal regulatory authorities.

The Planning Board will state in writing as part of its conditional approval the elements that must be added to the application package in order to receive final approval.

- (2) A conditional preliminary approval shall expire after ninety (90) days of the date of the Planning Board's decision, or such other time period as mutually agreed upon between the board and the applicant.
- (3) Final approval shall be scheduled for the first regularly-scheduled meeting after the Code Enforcement Officer has certified that the elements required as part of the conditional approval have been submitted. The public is not required to be notified except through the standard posting of the agenda.

4.3.8 Final Approval and Signing

- A. The applicant shall submit for signature at least two mylar copies and one paper copy of the final plan. One paper copy and one mylar copy will be retained in the records of Kingsbury Plantation.
- B. Planning Board members in attendance at the final review shall sign the approved plan if they find as follows:
 - (1) All changes, modifications and amendments required by the Planning Board have been placed on the Plan;
 - (2) Any permits required from Maine DEP, Maine DOT, US Army Corps of Engineers, or other state or federal agency are in hand;
 - (3) All waivers approved by the Planning Board are listed on the Plan;
 - (4) Any conditions imposed by the Planning Board that have not been met at the time of final approval are listed on the Plan; and
 - (5) Costs for professional assistance, if any, are paid in full.

4.4 Amendments and Revisions

4.4.1 Amendments to a Subdivision Plan

The Planning Board shall review any amendments or revisions to an approved subdivision plan. If the amendment or revision involves the creation of new lots or units, or a significant change in road alignment or design, the notice and meeting requirements for a new subdivision shall be followed.

4.4.2 Amendments to Planning Board Permits

- A. The Planning Board shall review and may approve a proposed change to any permit which it has issued in accordance with Section 4.3, above, which involves any of the following conditions. The Planning Board may follow notice and meeting requirements if it determines the change to be significant, such as:
 - (1) An increase in the number or footprint area of buildings on the site;
 - (2) An increase in the area of impervious surface on the site;
 - (3) A change of use of the property to a use which will generate a higher traffic demand; or
 - (4) A change in location or design of any infrastructure that will be used by the general public, including but not limited to parking areas, streetlights, or roads. or sidewalks.

Review by the Planning Board shall be limited to the impacts of the proposed changes and shall not encompass nor burden the original approval.

- B. The Code Enforcement Officer shall review and may approve permits issued by him or her under Section 4.2, above, and shall review changes to Planning Board-issued permits that do not meet the criteria in paragraph A, above.

If the Code Enforcement Officer reviews a change to a Planning Board-issued permit, he or she shall make a written record of the action and transmit the record to the Chairman of the Planning Board for the file.

4.5 Submission Requirements

4.5.1 Application Package

- A. All applications shall be covered by a Kingsbury Plantation Application Form.
- B. All applications shall be submitted with sufficient fees, as calculated under the Kingsbury Plantation Fee Schedule. No application shall be considered complete until fees are paid.
- C. All applications shall include sufficient and legible copies for review. These shall include:
 - (1) Six (6) copies of all required submissions, including plan drawings reduced to fit on 11 x 17 pages.
 - (2) One (1) copy of all plan drawings at a size of 24 x 36 inches. Subdivision plats shall be drawn at a scale of no smaller than one hundred feet (100') to the inch. Design plans for roads and other infrastructure shall include plans, profiles, and cross-sections, as appropriate.
- D. For the final plan, only, the page for Planning Board signature shall be 24 x 36 inches in size and shall be presented on reproducible, stable based transparent "mylar" originals. Two (2) mylar copies shall be provided, one to be retained by the Plantation and one to be filed in the Piscataquis County Registry of Deeds as necessary. One paper copy shall be provided, to be retained by the Plantation.

4.5.2 Submittals Required for all Applications

- A. Application Form: A completed application form with all information included shall be signed by the applicant and by the owner of the property, if different.
- B. Plan Drawing: The plan drawing shall contain the listed elements. In order to maintain clarity, the drawing may consist of two or more pages, individually numbered and labelled with the name of the development.
 - (1) Proposed name of the development and municipality(ies) in which it is located, together with assessor's map and lot number(s) and street address if available.
 - (2) Name and address of the landowner, applicant, his/her agent, and the person(s) who prepared the application.

- (3) Contour lines showing elevations in relation to Mean Sea Level. (Most common contour interval is five feet (5')).
- (4) The date the Plan was prepared, magnetic north point, declination, and graphic map scale.
- (5) The boundary lines of the tract, survey monuments found or to be set, and any proposed new lot lines with approximate dimensions and lot areas, including any proposed open space or land to be dedicated for public use.
- (6) The boundaries of all water bodies, wetlands, significant vernal pools or unique natural areas as identified on Beginning with Habitat maps or known historic or archeological sites located on the tract.
- (7) The location of any zoning boundaries within or affecting the tract.
- (8) If any portion of the development is in a flood prone area, the boundaries of any flood hazard areas with the 100-year flood elevation delineated.
- (9) The approximate location and dimensions of structures, both existing and proposed to be erected in the development, including but not limited to buildings, support structures, signs, lighting, and auxiliary and accessory structures.
- (10) The approximate alignment and dimensions (profile and cross-section) of any road(s), access points, driveways, or parking areas proposed to be constructed or improved to serve the development.
- (11) The location, dimensions, and description of any buffers or landscaping proposed for the development.
- (12) The size, type, and location of any water lines, sewer lines, hydrants, fire ponds, drainage facilities, electric or telephone lines and other utilities designed to service the development.
- (13) The boundaries of any farmland within the tract.
- (14) A location map insert showing an outline of the development area at a scale sufficient to show adjacent roads, water bodies, municipal boundaries and other significant features in the vicinity.

C. Attachments to the Application

The following documents will be included with all applications.

- (1) Verification of applicant's right, title, or interest in the property by means of a deed, lease, signed purchase and sales agreement or similar document.
- (2) A copy of the deed for the parent tract together with copies of all covenants or deed restrictions, easements, rights of way, or other encumbrances currently affecting the property.
- (3) A copy of any lease terms, covenants, or deed restrictions proposed to cover all or part of the development.
- (4) Indication of the type of sewage disposal to be used in the development. When sewage disposal is to be accomplished by subsurface sewage disposal system, test pit analyses, prepared by a licensed site evaluator

shall be provided. A map showing the location of all test pits on the site shall be submitted. (see Form HHE 200 – Page 2 of 3)

- (5) Indication of the type of water supply to be used in the development. When water is to be supplied by a public water supply, certification that the water supply has been designed by a licensed professional engineer. When water is to be supplied by a private well, evidence of adequate ground water supply and quality, in the form of test wells or a written statement from either a well driller or a geologist familiar with the area.
- (6) A description of fire protection measures to be available. Proposed sources of water must be reviewed by the fire chief prior to submittal of the application.
- (7) The names and addresses of owners of record of all property abutting the parcel to be developed, including any property directly across an existing public street.
- (8) A medium intensity soil survey covering the development. When the medium intensity soil survey shows soils that are generally unsuitable for the uses proposed, the applicant shall provide a report by a registered soil scientist or registered professional engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
- (9) An estimate of the costs required to construct the infrastructure required for the development, including but not limited to public and private roads, sidewalks, parking areas, utility installations, and lighting fixtures, together with a proposed mechanism for financing the construction.

D. Conditional Requirements for Certain Applications

Due to their size or potential impact on resources or facilities in Kingsbury Plantation, certain development applications shall be required to submit additional application information:

- (1) If the development is a subdivision, include an affidavit that no timber harvesting has occurred on the tract within the preceding five (5) years, or if it has, that it has not been conducted in violation of rules adopted pursuant to 12 M.R.S. §8869(14). The affidavit must be signed by a licensed forester or an agent of the Maine Forest Service.
- (2) If the development is predicted to generate traffic of more than 400 vehicles per day, include a traffic impact analysis, prepared by a licensed professional engineer with experience in traffic modeling. The Traffic Impact Analysis shall indicate recommended improvements to maintain the desired level of service on affected streets. If the development is large enough to require a Traffic Movement Permit from the Maine DOT, the applicant may substitute data and analysis necessary for that permit.
- (3) If the development involves any grading or construction, include a grading plan and an erosion control plan meeting the requirements of Maine

Erosion and Sedimentation Control BMP's (DEP, March 2003 or as revised.)

- (4) If the development will create more than 10,000 square feet of impervious surface, include a Stormwater Management Plan prepared by a licensed professional engineer.
- (5) If the development proposes the establishment of an association for maintenance of a private road, central sewer system or water supply, open space or parkland, include proposed articles of incorporation and bylaws for the association.
- (6) If the development will result in the extraction of more than 2,000 gallons per day of water or if it is located over a mapped aquifer, include a groundwater impact analysis, prepared by a groundwater hydrologist.
- (7) If the development will utilize or handle hazardous or toxic chemicals in the course of its operation, include a description of the chemicals to be used and a Spill Prevention, Control, and Cleanup Plan in accordance with 38 M.R.S.A. §1318-C.
- (8) If located within the High Value Scenic Resource Area identified by the Kingsbury Comprehensive Plan, include a Scenic Resource Assessment and Mitigation Plan prepared by a qualified professional.
- (9) Additional submission requirements may apply for specific forms of development, e.g. subdivisions, groundwater extraction, wireless telecommunication towers, wind energy facilities. Consult Section 6.6, Additional Standards for Subdivisions; and the applicable sections of Section 7, Activity Specific Standards of this ordinance for requirements.

4.5.3 Nothing in this Ordinance shall be construed as limiting the authority of the Planning Board to require the applicant to prepare and submit additional studies or analyses, or to hire a consultant to review any or all portions of an application.

4.5.4 **Final Plans**

- A. Any final plan intended for signature by the Planning Board shall include on its face the following items:
 - (1) The plan must show the name and signature, registration number, and seal of the surveyor or engineer who prepared it.
 - (2) All waivers approved by the Planning Board shall be listed on the Plan.
 - (3) Any conditions imposed by the Planning Board that have not been met at the time of final approval shall be listed on the Plan.
 - (4) If any roads within the development are to be privately-owned, the following sentence must appear: “[Name of Roads] shall remain private, to be maintained by [Name of developer or homeowners’ association], and shall not be offered for acceptance or maintained by the Plantation until they meet applicable public road design standards.”

- (5) A signature block shall appear with the words “Approved, Kingsbury Plantation Planning Board” together with five signature lines and a date line.

4.6 Expiration of Permits

For activities or uses locate in the shoreland zone, permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

For activities or uses located in the Rural district, permits shall expire two years from the date of issuance if a substantial start is not made in construction or use of the property during that period. If a substantial start is made within two years of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

4.7 Installation of Public Utility Service

A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

5: Criteria for Approval of Land Use Activities

5.1 Applicability

All applications for approval of land use activities within Kingsbury Plantation must meet the appropriate criteria listed below. The approval authority must find that through demonstrated planning, siting, and design of land use activities, each criterion can reasonably be met. General land use standards (Section 6) and standards for specific land use activities (Section 7) are intended to be a guide to this finding. The requirements of Section 4 explain the information to be submitted with the application in order to meet the criteria for approval.

The criteria listed below cannot be waived.

5.2 Criteria for all Land Use Activities

- 5.2.1 Adequate technical and financial provision has been made for complying with the requirements of this Ordinance and the State's air and water pollution control and other environmental laws.
- 5.2.2 Adequate provision has been made for solid waste and sewage disposal, for protection of public safety, and for the securing and maintenance of sufficient healthful water supplies.
- 5.2.3 Adequate provision has been made for loading, parking and circulation of traffic, in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods.
- 5.2.4 Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal.
- 5.2.5 The proposal will not cause unreasonable soil erosion or reduction in the capacity of the land to absorb and hold water and suitable soils are available for a sewage disposal system if sewage is to be disposed on-site.
- 5.2.6 The proposal is otherwise in conformance with this ordinance, standards, and plans adopted pursuant thereto.

5.3 Criteria Specific to Subdivisions

All proposed subdivisions shall be reviewed for conformance to the criteria listed in the Maine Subdivision Law, 30-A M.R.S.A. §4404, at the time of review. As of the date of enactment of this Ordinance, those criteria are:

- 5.3.1 The activity will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider:
 - A. The elevation of the land above sea level and its relation to the flood plains;
 - B. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - C. The slope of the land and its effect on effluents;
 - D. The availability of streams for disposal of effluents; and
 - E. The applicable State and local health and water resources rules and regulations.
- 5.3.2 There will be sufficient water available for the reasonably foreseeable needs of the subdivision.
- 5.3.3 The activity will not cause an unreasonable burden on an existing water supply, if one is to be used.
- 5.3.4 The activity will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
- 5.3.5 The activity will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, located outside the urban compact area of an urban compact municipality, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to 23 M.R.S.A., §704 and any rules adopted under that section.
- 5.3.6 The activity will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.
- 5.3.7 The activity will not cause an unreasonable burden on the Plantation's ability to dispose of solid waste if Plantation services are to be utilized.
- 5.3.8 The activity will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Plantation, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
- 5.3.9 The activity will be in conformance with the duly adopted subdivision ordinance, comprehensive plan, development plan, or land use plan. In making this determination, the Planning Board may interpret these ordinances and plans.
- 5.3.10 The developer has adequate financial and technical capacity to meet the standards of this Ordinance.
- 5.3.11 Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in 38 M.R.S.A., §435

- through §490, the activity will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
- 5.3.12 The activity will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- 5.3.13 Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.
- 5.3.14 All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.
- 5.3.15 All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.
- 5.3.16 Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S.A., §480-B, sub-§ 9.
- 5.3.17 The proposed subdivision will provide for adequate storm water management.
- 5.3.18 If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in 38 M.R.S.A., §480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.
- 5.3.19 The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
- 5.3.20 For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
- 5.3.21 Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S.A. §8869, sub-§14, "liquidation harvesting."

NOTE: See Section 6.6 for Additional Standards for Subdivisions.

5.4 Criteria Specific to Shoreland Zones

The following criteria apply only to land use activities in the Resource Protection, Stream Protection, and Limited Residential Districts. The activity:

- 5.4.1 *Will maintain safe and healthful conditions;*
- 5.4.2 *Will not result in water pollution, erosion, or sedimentation to surface waters;*
- 5.4.3 *Will adequately provide for the disposal of all wastewater;*
- 5.4.4 *Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;*
- 5.4.5 *Will conserve shore cover and visual, as well as actual, points of access to inland waters;*
- 5.4.6 *Will protect archaeological and historic resources as designated in the comprehensive plan;*
- 5.4.7 *Will not adversely affect existing commercial fishing;*
- 5.4.8 *Will avoid problems associated with floodplain development and use; and*
- 5.4.9 *Is in conformance with the provisions of this ordinance.*

6: General Land Use Standards

The standards of this Section shall be used by Kingsbury Plantation in reviewing applications for permits for land use activities and shall serve as minimum requirements for approval of the application. This Section is arranged to mirror the criteria of Section 5 in such a way that each criterion is accompanied by a set of standards. Compliance with development standards is prima facie evidence of meeting the criterion. However, applicants may propose alternative designs and approaches that will satisfy the criteria equally as well or better than the standards herein. In all instances, the burden of proof shall be on the applicant to demonstrate that criteria have been met.

This shall not be construed as limiting the authority of the Plantation to require additional evidence or design elements or set additional conditions on approval based on characteristics of the site or development.

6.1 Technical and Financial Capacity

Criterion:

Adequate technical and financial provision has been made for complying with the requirements of this Ordinance

- 6.1.1 The applicant must demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.
 - A. The application must list the names of architects, engineers, and other professionals who were involved in the development of the project.
 - B. The application must list either the names of contractors who have been engaged to construct the project, or the process by which those contractors will be hired.
 - C. The application must include the estimated cost of the project, including required public improvements, and the source of funding sufficient to meet those costs.
- 6.1.2 If any development or improvement of public infrastructure is proposed or required for the development of the project, the terms of performance guarantees must be approved as part of the application process. Performance guarantees will be developed in accordance with Section 8 of this ordinance.

6.2 Public Health and Safety

Criteria:

Adequate provision has been made for solid waste and sewage disposal, for protection of public safety, and for the securing and maintenance of sufficient healthful water supplies.

Sufficient water will be available for the reasonably foreseeable needs.

Provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.

Will not cause an unreasonable burden on the Plantation's ability to dispose of solid waste if municipal services are to be utilized.

6.2.1 Water Supply

- A. Individual wells shall be sited and constructed to prevent infiltration of surface water and contamination from subsurface waste water disposal systems and other known sources of potential contamination.
- B. Site design shall allow for placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal in compliance with the Maine Subsurface Waste Water Disposal Rules.
- C. Proposed activities involving sources of potential contamination, including but not limited to junkyards, automobile graveyards, gas stations, and bulk storage of petroleum products, must be located at least three hundred (300) feet from an existing public water supply and at least one hundred (100) feet from an existing private water supply (well).
- D. For subdivisions and other non-residential development, the applicant shall demonstrate that there is sufficient healthful water supply to serve the needs of the project.

6.2.2 Waste Water Disposal

- A. Determination of soil suitability for subsurface wastewater disposal shall be based on the Natural Resources Conservation Service's soils potential ratings for low density development. Soils with a low or very low development potential rating shall not be developed unless the Planning Board determines that adequate corrective measures will be used to overcome those limitations.
- B. Soil types shall be determined by a site-specific soil survey, according to the "Guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping" (Maine Association of Professional Soil Scientists, 2004). For subdivisions and commercial, industrial and other non-residential development, a medium-intensity soil survey shall be provided, except where soils with a low or very low development potential rating are evident, a high-intensity soil survey shall be conducted within the proposed building envelope.
- C. At least two test pits shall be dug within the boundaries of each lot proposed to be served by a subsurface wastewater disposal system. At least one test pit shall be dug within the boundaries of each lot proposed to be served by a primitive septic system. The location of such test pits shall be shown on the subdivision plat.
- D. No permit will be issued for a project with subsurface waste water disposal unless an acceptable subsurface wastewater design (HHE-200) is prepared by a licensed site evaluator or a Maine Licensed Professional Engineer, in accordance with the Subsurface Waste Water Disposal Rules.
- E. When private central or clustered waste water disposal systems are proposed, adequate provision shall be made for ongoing maintenance and repair of the

system and for reserving an area adequate for a future replacement system, in accordance with the Maine Subsurface Waste Water Disposal Rules.

- F. *All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:*
- (1) *Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland; and*
 - (2) *A holding tank is not allowed for a first-time residential use in the shoreland zone.*

NOTE: *The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.*

6.2.3 **Solid Waste Disposal**

- A. Provision shall be made for the regular collection and disposal of site-generated solid wastes at a state-approved landfill or transfer station.
- B. Provision shall be made for the legal disposal of all construction debris, stumps, brush, wood wastes, asphalt and pavement products.
- C. The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards established by federal or state agencies. The applicant shall identify any wastes proposed to be generated of these types and provide evidence that they will be disposed of in accordance with said standards.

6.2.4 **Emergency Services**

- A. The development must be designed to provide protection from the spread of fire. At a minimum, the requirements of NFPA-1 and NFPA-101 must be met for commercial development. The applicant must submit evidence that proposed fire protection measures are adequate, in the form of a written statement from the fire chief that the proposed development will not exceed the capacity of his/her department to provide adequate protection. The fire chief may recommend additional protective improvements, including but not limited to fire ponds, dry hydrants, fire lanes, separation of flammable wastes, or sprinkler systems.
- B. No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location, which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

- C. All subdivision roads and commercial driveways shall be designed and maintained to permit the passage of emergency response vehicles. At a minimum, the design standards of Section 6.3.1 shall be followed.

6.3 Road and Access Design

Criteria:

Adequate provision has been made for loading, parking and circulation of traffic, in, on and from the site, and for assurance that the proposal will not cause congestion or unsafe conditions with respect to existing or proposed transportation arteries or methods.

The proposed development will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed development requires driveways or entrances onto a state or state aid highway, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to 23 M.R.S.A., §704 and any rules adopted under that section.

6.3.1 Road Design and Construction

A. Classification of Roadways

Roads designed and built under the terms of this ordinance shall be classified as follows:

(1) **Class 1 Roadway**

Roads that are intended to serve commercial or industrial projects with anticipated traffic of at least fifty (50) trips per day, or residential subdivisions where a road is proposed to be dedicated to the Plantation or where the road will serve eight (8) or more lots.

(2) **Class 2 Roadway**

Roads which are intended to be privately maintained and that serve a low volume of use.

- B. Roadways shall adhere to the specifications outlined in Table 2, below, unless the Planning Board determines that a proposed alternative road design will meet the needs of the development and will not cause erosion or safety problems.

TABLE 2: Road Design Standards		
	Class 1 Road	Class 2 Road
Minimum right-of-way	50 feet	40 feet
Minimum roadway surface width	20 feet	14 feet
Minimum base (coarse gravel)	18 in.	12 in.
Minimum wearing surface	3 in. fine gravel or 2.5 in. bituminous concrete	3 in. fine gravel or 2.5 in. bituminous concrete
Maximum sustained grade	8%	12%

- C. Roadways that will be co-utilized for forest management purposes shall include turnouts that are large enough to accommodate wood haulers and other large vehicles.
- D. Adequate provisions shall be made for disposal of all storm water generated within the right-of-way. All components of the storm water management system shall be designed to limit peak discharge to pre development levels provided every storm between the two (2) year and twenty-five (25) year, twenty-four (24) hour duration, frequencies, based on rainfall data for Portland, Maine. This storm water management system shall be designed by a Registered Professional Engineer.
- E. A storm water management system shall be designed to direct storm water flows to existing water courses or storm water drains. Where a right-of-way is traversed by a stream, river or surface water drainage, drainage rights of way with swales, culverts, catch basins, or other means of channeling surface water shall be provided. Drainage easements for existing water courses or proposed drainage ways shall be provided at least thirty (30') feet wide, conforming substantially with the lines of existing natural drainage.
 - (1) The minimum pipe size for any storm drainage pipe shall be twelve (12) inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet. Pipe shall be bedded in fine granular materials, containing no stones larger than three (3) inches, lumps of clay, or organic matter, reaching a minimum of six (6) inches below the bottom of the pipe extending to six (6) inches above the top.
 - (2) Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Plantation allowing maintenance and improvement of the system.
 - (3) **Storm Drainage Construction Specifications**
 - (a) Reinforced Concrete Pipe: Reinforced Concrete Pipe shall meet the requirements of ASIM Designation C 76 (AASHTO M170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01-inch crack strength with Class B bedding. Joints shall be of the rubber gasket type meeting ASIM Designation C443 70, or of an approved preformed plastic jointing material. Perforated Concrete Pipe shall conform to the requirements of AASHTO M175 for the appropriate diameters.
 - (b) Corrugated Metal Pipe: Corrugated Metal Pipe shall meet AASHTO M196 for aluminum alloy pipe. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than five (5%) percent.

- (c) ABS Pipe: ABS (Acrylonitrile butadiene styrene) composite pipe and fittings shall conform to the requirements of AASHTO M264 and AASHTO M265. Perforated pipe shall conform to the requirements of AASHTO M36, Type 252.
- (d) Corrugated Plastic Pipe: Corrugated Plastic Pipe shall conform to the requirements of AASHTO M252.

F. Construction Materials

- (1) The construction requirements for aggregate base and sub-base course shall be as specified in Subsections 304.03 through 304.0 of the most current edition of the MDOT Standard Specifications Highway and Bridges manual.
- (2) The base layer of pavement shall be mixed and placed as per the most current edition of the MDOT Standard Specifications Highway and Bridges, section 401 and section 703.9. The surface layer of pavement shall be mixed and placed as per section 401 and section 701.4.
- (3) Construction requirements shall be as specified in Subsections 401.07 through 401.20, most current edition of the MDOT Standard Specifications Highway and Bridges manual.

G. Dead-End Roads

(roads with a single entrance to the existing road system) shall be constructed to provide a means to reverse direction at the terminus.

- (1) Circular style turnarounds shall have a right-of-way radius no less than sixty (60) feet, and a travel surface radius of no less than fifty (50) feet.
- (2) A “T” or hammer head style turnaround shall be centered within a fifty (50) foot right-of-way and shall be designed and constructed according to the same specifications as the road and no less than forty (40) feet in length (perpendicular leg).

H. Roads and Driveways Within the Shoreland Zone

Within the shoreland zones (Resource Protection, Stream Protection, and Limited Residential), the following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) *Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high water mark of a great pond classified GPA or a river that flows into a great pond classified GPA and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques*

will be used to prevent sedimentation of the waterbody, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

- (2) *On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.*
- (3) *This section does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this section, except for that portion of the road or driveway necessary for direct access to the structure.*
- (4) *Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream, or wetland.*
- (5) *New permanent roads are not allowed within the shoreland zone along Significant River Segments except:*
 - (a) *To provide access to structures or facilities within the zone; or*
 - (b) *When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.*
- (6) *New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.*
- (7) *Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 6.4.2.*
- (8) *Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.*
- (9) *In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams, or wetlands, roads and driveways*

shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

(10) *Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:*

(a) *Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:*

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

(b) *On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.*

(c) *Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.*

(11) *Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.*

6.3.2 Access Management

A. Access onto Rt. 16 is regulated by Maine Department of Transportation. Any application for land use activity directly accessing Rt. 16 shall provide evidence of a MDOT permit issued under 23 M.R.S.A., §704 or exemption.

- B. Access to Plantation roads shall comply with the following standards:
 - (1) The number and width of entrances and exits onto any road shall be limited to that necessary for safe entering and exiting.
 - (2) Access for any commercial development shall be designed such that vehicles may exit the premises without backing onto any public roadway or shoulder.
 - (3) Driveways shall intersect the roadway at an angle as near to 90 degrees as site conditions allow, but in no case less than 60 degrees, and shall be designed to blend with the road in a radius of between 10 feet and 15 feet, with a preferred radius of 10 feet.
 - (4) Points of access shall be at locations with suitable line-of-sight distance to avoid “blind drives.” At a minimum, driveways should have a clear line of sight for 250 feet in each direction.
- C. The Planning Board may require a traffic impact study of roadways and intersections in the vicinity of a proposed project site if the development has the potential of generating significant amounts of traffic or if traffic safety or capacity deficiencies exist in the vicinity of the project site.
- D. No driveway shall be located within fifteen (15) feet of a property line, except to allow for a shared driveway or direct access onto the adjacent property.
- E. A “sight triangle” shall be maintained 25 feet in length on each side of the intersection of the driveway and the roadway right-of-way, with the third side connecting the other two sides. Within each sight triangle, no landscape plants, other than low growing shrubs, shall be planted. These shrubs must be maintained to be no more than 30 inches in height above the driveway elevation.

6.3.3 Circulation and Parking for Non-residential Development

Provision shall be made for vehicular access within the project premises in such a manner as to avoid traffic congestion and safeguard against hazards to traffic and pedestrians along existing roadways and within the project area.

- A. Sufficient parking shall be provided on the site to meet the parking needs of the development. Where practicable, off-street parking shall be located to the side or rear of the principal structure. Table 3 shall be used as a guideline. In cases where it is demonstrated that a particular use can be carried out with fewer spaces than required without causing traffic congestion or safety problems, the Planning Board may reduce number of required spaces.

TABLE 3: Parking Requirements	
# of Spaces	Land Use Activity
Places of Residence or Accommodation -- spaces per room or dwelling unit	
1/3	Dedicated retirement home, nursing care facility
1	Overnight accommodations
1.5	Multifamily buildings

Places of Public Assembly -- spaces per seat based on maximum seating capacity	
¼	Theater, with fixed seating
1/3	Religious institution, restaurant
½	Meeting hall, grange, bottle club
Places of Commerce and Industry -- spaces per 1,000 sq. ft. of gross floor area.	
3	Grocery stores over 5,000 sq. ft., offices, except as noted.
3.5	Retail sales, except as noted
5	Banks, medical, dental, veterinary offices, fitness clubs, child care
Public and Institutional Facilities -- spaces per 1,000 sq. ft. of gross floor area	
4	Other education – classroom area only, community center.
Miscellaneous -- criteria as specified	
30 per acre	Other outdoor amusements
3 per service bay 1 per 10 vehicles displayed	Motor vehicle sales or service

B. At least one (1) space within each parking lot shall be designated and signed for handicapped parking. If the lot consists of more than twenty-five (25) spaces, a second space shall be so designated.

C. *In determining the appropriate size of proposed parking facilities, the following shall apply:*

(1) **Typical Parking Space**
Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

(2) **Internal Travel Aisles**
Approximately twenty (20) feet wide. In lots that are not paved, a layout shall be shown on the site plan showing at least three hundred (300) square feet for each required space (allowing for aisles).

D. *Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site. If runoff water is discharged to a concentrated flow channel, wetland or water body, a sediment basin shall be constructed to collect sediment before the runoff water is discharged.*

E. Off-street parking shall not be directly accessible from any public roadway. No parking space shall be provided which requires vehicles to back out onto a roadway. Ingress and egress to parking areas shall be limited to driveway entrances.

- F. Off-street parking areas with more than two parking spaces shall be arranged so that each space can be used without moving another vehicle.
- G. When parking areas associated with commercial development are adjacent to existing residential property, landscaping and/or architectural screens shall be used to provide an effective visual buffer between adjacent properties and the edge of the parking area.
- H. *Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.*

6.4 Protection of Natural and Cultural Resources

6.4.1 General Criteria:

Adequate provision has been made for fitting the proposal harmoniously into the existing natural environment in order to assure there will be no undue adverse effect on existing uses, scenic character, and natural and historic resources in the area likely to be affected by the proposal.

- A. The activity will not result in undue water or air pollution, considering:
 - (1) The elevation of the land above sea level and its relation to the flood plains;
 - (2) The nature of soils and subsoils and their ability to adequately support waste disposal;
 - (3) The slope of the land and its effect on effluents;
 - (4) The availability of streams for disposal of effluents; and
 - (5) The applicable State and local health and water resources rules and regulations.
- B. **Specific Criteria:**
 - (1) The activity will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
 - (a) The activity will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
 - (b) Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in 38 M.R.S.A., §435 through §490, will not adversely affect

the quality of such body of water or unreasonably affect the shoreline of such body of water.

- (c) The activity will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- (d) If the development, or any part of it, is in a flood-prone area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the developed area. The proposed project must include a condition of plan approval requiring that all structures will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.
- (e) All freshwater wetlands have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.
- (f) Any river, stream or brook within or abutting the proposed development has been identified on any maps submitted as part of the application.

6.4.2 Erosion and Sedimentation Control; and Soils

- A. *All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a Planning Board permit shall also require a written soil erosion and sedimentation control plan in accordance with Maine Erosion and Sediment Control BMPs, published by DEP (March 2003 or as revised). The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:*
 - (1) *Mulching and revegetation of disturbed soil.*
 - (2) *Temporary runoff control features such as hay bales, silt fencing or diversion ditches.*
 - (3) *Permanent stabilization structures such as retaining walls or rip-rap.*
- B. *In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.*
- C. *Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.*
- D. *Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:*
 - (1) *Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.*

- (2) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
- (3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

E. *Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.*

F. For commercial, industrial, or other non-residential development that results in more than one acre of soil disturbance in the Rural District and all development within a shoreland zone, the developer shall hire a contractor certified in erosion control practices by the Maine Department of Environmental Protection to install all control measures and shall hire a Maine Registered Professional Engineer to conduct follow-up inspections.

G. Inspections

Inspections shall be conducted in accordance with the erosion and sedimentation control plan. Inspections shall be conducted at least once a week and after each rainfall event accumulating more than ½ inch of precipitation, until all permanent control measures have been effectively implemented. Inspections shall also be conducted (1) at the start of construction or land-disturbing activity, (2) during the installation of sedimentation and erosion control measures, and (3) at the completion of final grading or close of the construction season.

H. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

6.4.3 Surface Water Quality

- A. *No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland (38 M.R.S.A. §464 et seq.); which impart toxicity and cause a surface water body to be unsuitable for the existing and designated uses of the water body; or which otherwise would result in a violation of state or federal water quality laws.*
- B. Appropriate best management practices of point and nonpoint sources of water pollutants shall be utilized, unless the Planning Board determines that alternative specifications will meet the needs of the activity and will cause no undue adverse impact to the surface water quality of the affected surface water body.

6.4.4 Groundwater Quality and Quantity

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

The standards set forth below must be met for all subdivisions, and commercial, industrial and other non-residential development.

- A. The development shall not pose an unreasonable risk that a discharge of pollutants to a groundwater aquifer will occur.
- B. The project shall not result in groundwater quality becoming inferior to the physical, biological, chemical, and radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S.A., §601. If the pre-development groundwater quality is inferior to the Maine State Drinking Water Regulations, the development shall not degrade the water quality any further.
- C. If the proposed land use activity will result in withdrawal of more than 2,000 gallons per day of groundwater, it will comply with the standards of Section 7.3 of this Ordinance.

6.4.5 Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- A. *Auto washing facilities;*
- B. *Auto or other vehicle service and/or repair operations, including body shops;*
- C. *Chemical and bacteriological laboratories;*
- D. *Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms;*

***NOTE:** 22 M.R.S.A. §1471-U requires municipal ordinances that apply to pesticide storage, distribution or use be filed with the Maine Board of Pesticides Control, 28 State House Station, Augusta, ME 04333. If a municipality's ordinance is more inclusive or restrictive than these Guidelines, as it pertains to pesticides, a copy of the ordinance must be filed with the Board of Pesticides Control.*

- E. *Commercial painting, wood preserving, and furniture stripping;*
- F. *Dry cleaning establishments;*
- G. *Electronic circuit assembly;*
- H. *Laundromats, unless connected to a sanitary sewer;*
- I. *Metal plating, finishing, or polishing;*
- J. *Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas;*
- K. *Photographic processing; and*
- L. *Printing.*

6.4.6 Wetland Protection

- A. *The applicant must delineate on the ground and in a subdivision or site plan all wetlands within the general project area using methods described in the Corps of Engineers Wetlands Delineation Manual (1987 or as revised).*
- B. *The following requirements apply to activities resulting in the alteration of more than 0.1 acre (4,300 square feet) to forested and non-forested wetlands that are not already within a Resource Protection Zone:*
 - (1) *Projects shall seek to avoid alteration of wetland areas to the extent feasible considering natural features, cost, existing technology and logistics based on the overall purpose of the project. Projects must not cause a loss in wetland area, functions and values if there is a practicable alternative to the project that would be less damaging to the environment.*
 - (2) *Projects must limit the amount of wetland to be altered to the minimum amount necessary to complete the project.*
 - (3) *Projects that would alter wetland hydrology and could also alter stream flows or other adjacent surface waters must comply with the water quality classification standards contained in 38 M.R.S.A. §465.*
 - (4) *A 25-foot buffer strip must be maintained between the activity and any surface waters.*

6.4.7 Wildlife Habitat Protection

- A. *The applicant and the Planning Board shall utilize information available from the Beginning with Habitat Program or the Maine Department of Inland Fisheries and Wildlife to ascertain the existence and status of significant wildlife habitat, including, but not limited to candidate deer wintering areas, rare, threatened or endangered wildlife, rare or exemplary natural communities, and significant vernal pools.*

- B. If any portion of a subdivision, or commercial industrial or other non-residential project could impact critically imperiled (S1) or imperiled (S2) natural communities or plant species as determined by the appropriate State agency, the applicant shall demonstrate that there will be no undue adverse impact on the community and species the site supports and indicate appropriate measures for the preservation of the values that qualify the site for such designation.
- C. If an area within the proposed development site has been identified by the Maine Department of Inland Fisheries and Wildlife as a candidate deer wintering area, the developer shall consult with a qualified wildlife biologist and incorporate measures for protection of the resource into the development plan.
- D. The design for a new residential subdivision or non-residential development must include suitable open space for wildlife passage, around or through the development, of at least 500 feet in width. The wildlife passage shall be located, in order of preference, along the side of flowing waters or wetlands, in a way that links high value wildlife habitats on or off the property, along the property line of any abutting conserved land, or adjacent to one of the boundary lines of the parcel, to the extent practicable.

Notwithstanding Section 6.4.7, D, the Planning Board may allow a design without onsite open space for wildlife passage:

- (1) In cases where a proposed development constitutes “in-fill” development, on a parcel surrounded by existing development, for which any designated open space would be an isolated pocket providing little long-term value.
- (2) In cases where the residential subdivision or non-residential development has joined with a group of landowners to jointly establish a common wildlife corridor at least 500 feet in width, within one-quarter mile of the project site.
- (3) In cases where a site-specific resource assessment shows that the wildlife passage goal will otherwise be met on or within one-quarter mile of the project site.

Permit applications for residential subdivisions and non-residential development required to meet this standard shall include a plan identifying the wildlife passage and demonstrating that the open space for wildlife passage will not be materially altered in the future by any uses allowed with or without a permit.

6.4.8 Protection of Scenic Resources

- A. The design of proposed commercial, industrial or other non-residential development shall take into account the scenic character of the area. Structures shall be located, designed and landscaped to reasonably minimize their visual impact, particularly when viewed from existing roadways or shorelines.
- B. To the extent practicable, proposed structures and other visually intrusive development shall be placed in locations least likely to block or interrupt scenic views as seen from traveled ways, water bodies, or public property.

C. The Kingsbury Comprehensive Plan has identified the Kingsbury Dam and Picnic Area a High Value Scenic Resource. Any commercial, industrial or other non-residential development affecting these areas shall preserve the visual character of the areas. The Planning Board shall require a Scenic Resource Assessment and Mitigation Plan as part of the application process.

D. **Hillside Resources**

The standards for hillside resources must be met for all subdivision, residential, commercial, industrial, and other non-residential development, if any portion of the project area is located on a hillside, except as provided below.

(1) **Exceptions**

The hillside resources standards in Section 6.4.8,D,3 through 6 do not apply to:

- (a) Features of structures within non-residential developments that contain no floor area such as chimneys, towers, ventilators, and spires; or to freestanding towers and turbines; or
- (b) A development or portions of a development that will not be visible from existing roadways, major water bodies, coastal wetlands, permanent trails, or public property located within three miles of the project boundary. Where views of the development are blocked by natural conditions or features such as existing vegetation, to qualify for this exception, the applicant shall demonstrate that these obstructing features or conditions will not be materially altered in the future by any uses allowed with or without a permit. In cases where the Planning Board determines the development will be visually intrusive or where there is a particularly sensitive resource more than three miles away, the Planning Board may increase the distance for determining applicability of the hillside standards.

(2) **Ridgeline Protection**

The development must be designed to ensure buildings, structures, and other improvements will not extend above the existing ridgeline or otherwise alter the ridge profile significantly when viewed from existing roadways, major water bodies, coastal wetlands, permanent trails, or public property.

(3) **Vegetative Clearing**

The proposal must include a vegetation management plan that establishes and provides for long-term maintenance of clearing limits that will minimize potential impacts to views from existing roadways, major water bodies, coastal wetlands, permanent trails, and public property. The vegetation management plan must ensure:

- (a) There will be a sufficient area of clearing allowed around buildings to maintain the minimum extent needed for defensible space for fire safety, generally 30 feet in width;
- (b) There will be sufficient vegetation maintained on steep slopes to protect long-term slope stability;
- (c) Existing forest cover will be maintained to interrupt the view of the façade of buildings, provide a forested backdrop to buildings, and reduce or eliminate the visual impact of new development;
- (d) Clearing for views will be limited, with narrow view openings between trees and beneath tree canopies being a desirable alternative to clearing large openings adjacent to building facades; and
- (e) If cleared openings are allowed outside the building envelope, such as clearing for views, the plan shall include a quantifiable standard for limiting that clearing.
- (f) The Commission may require additional vegetative clearing limitations or standards in cases where the proposed development could be visible from a scenic resource that has a unique or special value relative to other scenic resources in the area.

(4) **Structural Development**

The development must provide for building designs that will complement the site and topography (e.g., avoiding long unbroken roof lines; orienting buildings such that the greatest horizontal dimension of the structure is parallel with, and not perpendicular to, the natural contour of the land; stepping the building down the slope rather than creating building pads that require extensive excavation and filling, and sloping roofs in the direction and general angle of the natural slope on the project site).

(5) **Construction Materials**

The development must be designed to ensure that:

- (a) The exterior colors of structures, including but not limited to siding, roofing, retaining structures, foundations, trim, gutters, vents and chimneys, will be a muted tone naturally found at the specific site or in the surrounding landscape.
- (b) Structures use only low or non-reflective exterior building materials, including but not limited to windows, roofing, gutters, vents, and chimneys. If a highly reflective material, such as aluminum or other smooth metal, is used for an essential component of the structure because no other material is reasonably available for that component, reduced reflectivity must be incorporated and maintained to the greatest extent practicable by, for example, painting the component with a muted color naturally found at the site, boxing in the component

with non-reflective material, or using a textured or pre-weathered version of the component.

(6) **Linear Infrastructure**

Roads, driveways, utility corridors, and other similar linear infrastructure must be located and constructed so as to minimize the visibility of corridor openings to the extent practicable (by, for example, following topographic contours and retaining existing vegetation).

6.4.9 **Protection of Historic or Archeological Resources**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

NOTE: *Plantation officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in Kingsbury Plantation.*

- A. If any portion of a subdivision or commercial, industrial or other non-residential project site includes an archaeologically sensitive area or a structure listed in the National Register of Historic Places, or is considered by the Maine Historic Preservation Commission as likely to contain a significant archaeological site or structure, the applicant shall conduct archaeological surveys or submit information on the structure, as requested by the Planning Board.
- B. If a significant archaeological site or structure is located in the project area, the applicant shall demonstrate that there will be no undue adverse impact to the archaeological site or structure, either by project design, physical or legal protection, or by appropriate archaeological excavation or mitigation.

6.4.10 **Floodplain Management**

All development in flood prone areas shall meet the applicable requirements and standards in Appendix A: Floodplain Management Ordinance for Kingsbury Plantation.

6.4.11 **Storm Water Management**

A. **Standards for all development:**

- (1) *All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.*

- (2) *Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.*
 - (3) To the extent possible, the plan must retain stormwater on the site using the natural features of the site and must not have adverse impacts on abutting or downstream properties.
 - (4) Any project which requires a Stormwater Management Permit from the Maine Department of Environmental Protection must submit a copy of the approved permit at time of application.
 - (5) For projects involving structural treatments, a Stormwater Maintenance Agreement (SMA) must be submitted at the time of application. The SMA must indicate how stormwater facilities will be maintained through the course of their projected life.
 - (6) The biological and chemical properties of receiving waters must not be degraded by stormwater runoff. The use of oil and grease traps in catch basins, the use of on site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required.
- B. Standards for development that disturbs one acre or more of land or is located in the shoreland zone:
- (1) Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a Stormwater Management Plan consistent with Maine's Stormwater Best Management Practices Manual, (DEP, March and May 2016, or as revised).
 - (2) Stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate. The applicant must demonstrate that on and off site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
- C. Standards for development on hillsides, as defined in Section 9. The proposal must include plans for the construction and maintenance of stormwater best management practices designed to slow down and spread runoff from developed areas and ensure that increased runoff does not cause downgradient soil erosion.

NOTE: The Stormwater Management Law (38 M.R.S.A. §420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of

disturbed area but less than 1-acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

6.5 Site Design Standards

Criteria:

The land use activity is in conformance with this Ordinance and standards adopted thereto.

The activity is in conformance with the duly adopted ordinance, comprehensive plan, development plan or land use plan.

6.5.1 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting within Shoreland Areas

A. *In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in Section 6.5.2.*

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

B. *Except in areas as described in Section A, above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:*

- (1) *There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.*
- (2) *Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 6.5.1,B,2, a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.*

<i>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</i>	<i>Points</i>
<i>2.0 to < 4.0</i>	<i>1</i>
<i>4.0 to < 8.0</i>	<i>2</i>
<i>8.0 to < 12.0</i>	<i>4</i>
<i>12.0+</i>	<i>8</i>

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

NOTE: *As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:*

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 - 24 = 12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this rating system:

- (a) The 25-foot x 50-foot rectangular plots shall be established where the landowner or lessee proposes clearing within the required buffer;*
- (b) Each successive plot shall be adjacent to but not overlap a previous plot;*
- (c) Any plot not containing the required points shall have no vegetation removed except as otherwise allowed by these rules;*
- (d) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by these rules; and*
- (e) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.*

For the purposes of Section 6.5.1,B,2, "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 1/2) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5

saplings have been recruited into the plot. In addition, the soil shall not be disturbed, except to provide for a footpath or other permitted use.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4½ feet above ground level may be removed in any ten (10) year period.

- (3) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 6.5.1, paragraphs B and B.*
 - (4) Pruning of tree branches, on the bottom 1/3 of the tree is allowed, provided that tree vitality will not be adversely affected.*
 - (5) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings in excess of 250 square feet, these openings shall be replanted with native tree species in accordance with Section Q, below, unless existing new tree growth is present.*
 - (6) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 6.5.1,B.*
- C. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.*
- In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the shoreland zone, including the buffer area.*
- D. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.*

- E. *Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 6.5.1,B.*

6.5.2 Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

- A. *Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:*

- (1) ***Within the Shoreline Buffer***

- If the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.*

- (2) ***Outside of the Shoreline Buffer***

- When the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.*

- (3) *The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.*

- (4) *The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.*

- (5) *The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.*
- B. *Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:*
 - (1) *Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:*
 - (a) *The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;*
 - (b) *Stumps from the storm-damaged trees may not be removed;*
 - (c) *Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and*
 - (d) *If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.*
 - (2) *Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.*

6.5.3 Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 6.5.1, provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- A. *The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 6.5.1 apply;*

- B. *The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 3.2.2 are not applicable;*
- C. *The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;*
- D. *The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 7.2.1 are complied with;*
- E. *The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A §343-E, and that is located along:*
 - (1) *A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A §465-A.*
- F. *The removal of non-native invasive vegetation species, provided the following minimum requirements are met:*
 - (1) *If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;*
 - (2) *Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and*
 - (3) *If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.*

NOTE: *An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program:
http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm*

The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

6.5.4 Revegetation of Cleared Areas in Shoreland Zones

When revegetation is required in response to violations of the vegetation standards set forth in Section 6.5.1, to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be

permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- A. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.*
- B. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.*
- C. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.*
- D. Revegetation activities must meet the following requirements for trees and saplings:*
 - (1) All trees and saplings removed must be replaced with native noninvasive species;*
 - (2) Replacement vegetation must at a minimum consist of saplings;*
 - (3) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;*
 - (4) No one species shall make up 50% or more of the number of trees and saplings planted;*
 - (5) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and*
 - (6) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.*
- E. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:*
 - (1) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;*

- (2) *Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;*
 - (3) *If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;*
 - (4) *No one species shall make up 50% or more of the number of planted woody vegetation plants; and*
 - (5) *Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this ordinance for minimum of five (5) years.*
- F. *Revegetation activities must meet the following requirements for ground vegetation and ground cover:*
- (1) *All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;*
 - (2) *Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and*
 - (3) *Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this ordinance for minimum of five (5) years.*

6.5.5 Exterior Lighting

- A. All exterior lighting fixtures will be full cut-off, except for security lighting containing a 160 watt or less incandescent bulb, or any other lighting source of 60 watts or less. Full cut-off fixtures are those that project no more than 2.5% of light above the horizontal plane of the luminary's lowest part.
- B. Light fixtures mounted on structural canopies shall be recessed so that fixtures are flush with the canopy. Alternatively, canopies may be indirectly lit using light beamed upward and then reflected down from the underside of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.
- C. All exterior lighting shall be designed, located, installed and directed in such a manner as to illuminate only the target area, to the extent practicable. No activity shall produce a strong, dazzling light or reflection of that light onto neighboring properties or onto any road so as to impair the vision of the driver of any vehicle upon that roadway or to create nuisance conditions.
- D. For commercial, industrial and other non-residential development, all non-essential outdoor lighting shall be turned off after business hours, leaving only the minimal necessary lighting for site security. The term "non-essential" applies, without limitation, to display, aesthetic and parking lighting.

- E. The following activities are exempt from these standards:
- (1) Roadway and airport lighting, and lighting required by the Federal Aviation Administration for air traffic safety;
 - (2) Temporary fair, event, or civic uses;
 - (3) Emergency lighting, provided it is temporary and is discontinued upon termination of the work;
 - (4) Lighting that is activated by motion-sensors; and
 - (5) Lighting that was in place on April 1, 2004.

6.5.6 Noise

- A. With the exception of Wind Energy Generation Facilities, the maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any commercial, industrial and other non-residential development shall be as established by the time period listed below. Sound pressure levels shall be measured at all property boundary lines, at a height of at least 4 feet above the ground surface. The levels specified below may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes per day.

7:00 AM to 7:00 PM	7:00 PM to 7:00 AM
55 dB(A)	45 dB(A)

- B. The following activities are exempt from the requirements of the preceding subsection:
- (1) Sounds emanating from construction-related or woods-related activities conducted between 7:00 A.M. and 7:00 P.M.;
 - (2) Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency activities; and
 - (3) Sounds emanating from traffic or machinery on roadways.

6.5.7 Signs

- A. All signs shall conform to the standards of the Maine Traveler Information Services Act, 23 M.R.S.A., §1901 et seq. or successor statute.
- B. Unless licensed as an Official Business Directional Sign in accordance with 23 M.R.S.A., §1918, or successor statute, signs must be placed on the property of the business offering the goods or service being advertised and not be located more than 1,000 feet from the building or other particular site at which the activity advertised is conducted.

C. Size

No individual sign may measure more than thirty-two (32) square feet in size. No combination of signs on a single site may, in aggregate, measure more than sixty-four (64) square feet in area. Within the Resource Protection, Stream Protection, and Limited Residential Districts, no more than two (2) signs are permitted, each measuring no more than six (6) square feet in area.

D. Signs Relating to Goods and Services Sold on the Premises

Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

E. Height

No sign shall extend higher than twenty (20) feet above the ground.

F. Lighting

Signs may be illuminated only by shielded, non-flashing lights. No sign shall be internally lit. Exterior lighting shall be directed at the sign in such a way that lighting elements are not directly visible to travelers on the road.

G. Free-standing Signs

Free-standing signs shall be sufficiently secured to the ground to withstand strong winds. Free-standing signs shall not extend more than 15 feet above ground level and shall not have a supporting structure which extends more than two feet above such sign. (Free-standing signs which are in place for fewer than sixty (60) days per year are considered temporary and are not subject to the requirements of this Ordinance.)

H. Building-Mounted Signs

Building-mounted signs must be mounted flush or, if projecting, no lower than nine (9) feet above the ground and may project no more than 2 feet from the building. Signs shall not extend above the eave line of the building. Roof signs are prohibited.

I. Signs for Sale, Rental or Lease of the Premises

Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises. Signs advertising the sale or lease of real estate by the owner or his agent shall not have an area of more than 6 square feet.

J. Name Signs

Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.

K. No Trespassing and Hunting Signs

Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

L. Public Safety Signs

Signs relating to public safety shall be allowed without restriction.

6.5.8 **Roadside Buffer**

A vegetative buffer strip consisting of natural vegetation no less than fifty (50) feet in width shall be maintained between the developed area of the property and the edge of right-of-way of a public road. The buffer strip shall be preserved as provided for shoreland buffer strips in Section 6.5.1,B.

6.6 **Additional Standards for Subdivisions**

Criteria:

All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.

Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S.A., §480-B, sub-§ 9.

Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S.A, §8869, sub-§14, "liquidation harvesting."

6.6.1 **Creation of Subdivision Lots**

A. **Harmonious Fit and No Undue Adverse Impact**

Subdivisions shall be designed to fit harmoniously into the natural environment and shall cause no adverse impact on surrounding uses.

B. Subdivisions shall be staged so that no more than five (5) lots are sold per 12-month period. Subdivisions totaling more than five (5) lots shall be designed to avoid the linear placement of lots and driveways along roadways or shorelines. If practicable, subdivision lots can be placed so as to create a distinct neighborhood. Regardless, lots shall be configured in such a manner so that groups of lots are separated by at least 500 feet of undeveloped land and the lots within a group do not extend more than 1,320 feet along any roadway or shoreline.

C. **Driveway Access Points**

To the extent practicable, subdivisions shall be designed to reduce the number of driveway access points onto roadways and interior roads.

D. **Building Envelopes**

Building envelopes shall be marked and identified on the subdivision plat for each proposed lot in accordance with the following requirements:

- (1) Building envelopes shall identify all areas within each subdivision lot where structural development may occur;
- (2) Building envelopes shall be arranged to conform with the minimum shoreline, road and property line setback and maximum lot coverage requirements; and
- (3) Where practicable, building envelopes shall be arranged so as to avoid the placement of structures and driveways along ridge lines, in wetlands, or on slopes greater than 20 %, or any other important topographic and natural features.

6.6.2 Survey and Monumentation

All subdivision and lot boundary corners and angle points shall be marked by suitable, permanent monumentation set according to the standards of the Maine Board of Registered Land Surveyors. Monuments shall be marked with the name and registration number of the individual responsible for its placement.

6.6.3 Platting for Subdivision Review

- A. The subdivision plat shall show all areas of freshwater wetlands, regardless of size.
- B. The subdivision plat shall show all areas of farmland, as defined in this Ordinance.
- C. The subdivision plat shall show any river, stream, or brook within or abutting the proposed subdivision.
- D. The final subdivision plat shall identify the location and type of survey monuments placed and shall contain the identifying number and seal of the registered surveyor or professional engineer who prepared the plan.

6.6.4 Restriction on Liquidation Harvesting

The applicant for a subdivision shall show that timber on the parcel being subdivided has not been harvested in violation of rules adopted by the Maine Forest Service pursuant to 12 M.R.S.A., §8869, sub-§14. If a violation of rules has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Maine Forest Service to determine whether a rule violation has occurred, or the board may accept a determination certified by a forester licensed pursuant to 32 M.R.S.A., Ch. 76. If the Forest Service agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The Planning Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in 12 M.R.S.A., §8868, sub-§6 and "parcel" means a contiguous area within the Plantation owned by one person or a group of persons in common or joint ownership.

7: Activity-specific Standards

7.1 Accessory Structures in the Rural District

All new or expanded accessory structures are allowed with a permit from the CEO, except that such structures are allowed without a permit in the Rural District if they meet the following conditions:

- 7.1.1 Be accessory to a legally existing principal structure and use;
- 7.1.2 Meet the definition of accessory structure in Section 9;
- 7.1.3 Conform with any applicable permit conditions, and/or deed restrictions recorded for the property;
- 7.1.4 Meet all of the applicable dimensional requirements in Section 3.2.2;
- 7.1.5 Not be used for human habitation;
- 7.1.6 Have no internal plumbing and not be supplied with water other than for a hose bib (exterior hose faucet);
- 7.1.7 Be consistent with the use of the principal structure and not add a new activity to those currently permitted at the site or facility; and
- 7.1.8 Not cause the total development on a property to exceed any gross floor area or lot coverage limitation related to the type of use.

7.2 Agriculture and Timber Harvesting

7.2.1 *Agriculture*

The following standards apply only within the Resource Protection, Stream Protection, and Limited Residential Districts.

- A. *All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A., §§4201-4209).*
- B. *Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or a river, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.*
- C. *Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.*

***NOTE:** Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.*

- D. *There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.*
- E. *Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.*

***NOTE:** 7 M.R.S.A. section 155 requires a municipality to provide the Commissioner of Agriculture, Conservation and Forestry with a copy of any proposed ordinance that impacts farm operations. The law further requires the Commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. A copy of a shoreland zoning ordinance that regulates no more restrictively than contained in these Guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.*

7.2.2 Timber Harvesting

The Maine Bureau of Forestry will administer the regulation of all forestry activities within Kingsbury Plantation.

7.3 Extraction of Groundwater

These standards shall apply to any commercial enterprise or public water supplier proposing to extract groundwater in excess of two thousand (2,000) gallons per day.

7.3.1 Groundwater Assessment

An assessment of the impacts of the development on ground water shall be required prior to application. The assessment shall be prepared by a certified geologist or registered professional engineer and shall include the following:

- A. A map showing the basic soil types.
- B. The depth to the water table at representative points throughout the development and presumed ground water flow directions.
- C. Drainage conditions throughout the development.

- D. Data on the existing ground water quality and availability, either from test wells in the development or from existing wells on neighboring properties.
- E. An analysis and evaluation of the effect of the development on ground water resources. The evaluation shall, at a minimum, include a projection of post development water quality and quantity, including fluctuations in water table levels and nitrate concentrations.
- F. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the development and within 200 feet of the development boundaries.

7.3.2 Impact on Neighboring Properties

- A. No extraction operation shall result in significant lowering of the water table at the property lines of adjacent residential property.
- B. No extraction operation shall have an adverse effect on the quality of groundwater supplies.
- C. The applicant will prepare a wellhead protection plan in accordance with guidance from the Maine Department of Health and Human Services Drinking Water Program or show that he has control over land use activities within the source water protection area to be established.

7.3.3 Permit Limitations

A permit issued by the Planning Board will specify the maximum volume of water to be extracted, as projected by the groundwater assessment. The maximum volume may be exceeded only by amending the original permit.

7.4 Home Occupations

7.4.1 A commercial enterprise which conforms to the following standards is considered to be a home occupation, provided it meets the following criteria:

- A. It is carried out within an existing residence and without altering the residential character of the home or changing the character of the lot from its principal use as a residence.
- B. It employs the residents of the dwelling unit, with not more than two employees who are not residents of the dwelling unit.
- C. It does not generate any nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, radiation, fumes, or electrical interference with normal radio or television reception, or cause other nuisances which extend beyond the limits of the subject property.
- D. It does not generate any substantial increase in daily or seasonal traffic.

7.4.2 A commercial enterprise which cannot meet the standards of this section is considered a commercial use, subject to the limitations and requirements of Table 1.

7.5 Mineral Exploration and Extraction

7.5.1 Mineral Extraction Operations

A. Supplemental Application Requirements

A mineral extraction operation that will exceed five (5) acres is required under 38 M.R.S.A., §490-A et seq. to obtain a permit from the Maine Department of Environmental Protection. Applicants shall submit a copy of the DEP application to the Plantation. Otherwise, an application shall contain the following elements:

- (1) The site plan shall include the following features:
 - (a) Topography with contour intervals no greater than ten (10) foot, based on USGS data; and
 - (b) The location and slope of grades existing and proposed upon completion of the extraction operation.
- (2) A written statement of the proposed operating procedure and working hours.
- (3) A five-year plan, showing new areas to be mined, and old areas to be reclaimed, together with estimates of volumes to be extracted, and detailed plans for reclamation of completed excavation.
- (4) The Planning Board may require a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality in the vicinity.

B. Development Standards for Extraction Operations

Mineral extraction may be permitted under the following conditions:

- (1) *A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 7.5.1,B,13, below.*
- (2) Extraction operations shall not be permitted within two-hundred fifty (250) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property. No part of any extraction operation shall be permitted within two-hundred fifty (250) feet of any property or street line, except drainage ways to reduce run-off into or from the extraction area may be allowed provided suitable erosion control measures are in place. Natural vegetation shall be left and maintained on the undisturbed land.
- (3) *No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water*

body, tributary stream, or the upland edge of a wetland. A vegetated strip shall be retained within these setbacks.

- (4) Within 250 feet of any water body the extraction area shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams, or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body.
- (5) The sides and bottom of cuts, fills, channels, and artificial water courses shall be stabilized to prevent erosion or failure. Such structures are to be designed and built according to accepted Best Management Practices for erosion control.
- (6) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The developer shall obtain written approval from the Maine Department of Environmental Protection, and/or the Department of Inland Fisheries and Wildlife, as applicable.
- (7) The hours of operation at any extraction site shall be limited, if necessary to ensure operational compatibility with neighboring residences.
- (8) All driveways from the extraction site to public roads shall be treated with suitable materials to reduce dust and mud for a distance of at least one hundred (100) feet back from such public roads.
- (9) *Within twelve (12) months following the completion of extraction operations at any extraction site, or a cell within a site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:*
 - (a) *All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.*

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A. §1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

- (b) *The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.*
 - (c) *Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.*
- (10) Topsoil removed during the extraction operation will be stockpiled on the site and used during reclamation. Debris, stumps, boulders, and similar

materials shall be removed and disposed of on the property in an approved location, or, in the case of inorganic material, buried and covered with a minimum of two (2) feet of soil. Only materials generated on-site may be buried or covered.

- (11) All areas shall be properly restored to a stable condition adequate to meet the provisions of the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, published by the Cumberland County Soil and Water Conservation District, 1991, or most recent edition.
- (12) Any temporary shelters or structures erected for operations and equipment shall be removed within thirty (30) days following completion of extraction operations.
- (13) *In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.*

7.5.2 Mineral Exploration

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation.

A. The following requirements shall apply to mineral exploration activities:

- (1) *All excavations, including test pits and holes, shall be promptly capped, refilled or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety.*
- (2) Mineral exploration activities or associated access ways where the operation of machinery used in such activities results in the exposure of mineral soil, shall be located such that an unscarified filter strip of at least the width indicated below is retained between the exposed mineral soil and the normal high-water mark of a flowing water, body of standing water or wetland:

Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (Percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet Along Surface of the Ground)
0-9	25
10-19	45
20-29	65
30-39	85
40-49	105

50-59	125
60-69	145
70+	165

These provisions apply only on a face sloping toward the water, provided, however, no portion of such exposed mineral soil on a back face shall be closer than 25 feet; the provisions do not apply where access ways cross such waters.

- (3) Except when surface waters are frozen, access ways for mineral exploration activities shall not utilize stream channels except to cross by the shortest possible route; unless culverts or bridges are installed, such crossings shall only use channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (4) Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream.
- (5) In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all area of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to insure effective stabilization.

7.6 Recreational Facilities, Campgrounds, and Campsites

All new recreational facilities, including campgrounds, and campsites, and reconstruction of or substantial improvements to existing facilities, must be developed in conformance with the standards of this section.

7.6.1 Classification of Recreational Lodging Facilities

Recreational lodging facilities shall be classified into two categories: “primitive” and “small.”

- A. A primitive facility is one in which electric power and running water are not provided to patrons, buildings are limited to an aggregate of 750 square feet, and in which no land use activity other than overnight occupancy is conducted by the operator.
- B. A small facility is one in which the aggregate floor area of principal buildings is less than 10,000 square feet, of which not more than 200 square feet may be devoted to retail use, and which operates with an occupancy limit of less than 100 overnight guests.

7.6.2 **Square Footage**

Any square footage calculation for recreational lodging facilities shall include only the total floor area for all principal buildings. Principal buildings generally include, for example: main lodge, cabins for the housing of guests, bathroom facilities, caretaker and guide housing, and recreation rooms (e.g., the principal space available to or necessary for serving the guests). Accessory structures are not counted, such as: wood shed, generator building, workshop, storage, composting toilet infrastructure, and structures having a footprint of not more than 100 square feet which are part of an on-site recreation activity. Outpost cabins are not considered in determining the applicable floor area limitation.

7.6.3 **Conversion of Use**

Recreational lodging facilities may not be converted to another use without a permit. Conversion may be permitted, provided it complies with all applicable regulations. When the conversion is to a residential use, any water dependent structures for recreational lodging facilities must be removed or relocated; and all lots and structures must comply with this ordinance, including approval as a subdivision if required.

7.6.4 **Campgrounds**

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- A. *Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.*
- B. *The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.*

7.6.5 **Individual Private Campsites**

Individual private campsites not associated with campgrounds are allowed in all districts, provided the following conditions are met:

- A. *One campsite is permitted per lot existing on the effective date of this Ordinance, or per thirty thousand (30,000) square feet of lot area, whichever is less.*
- B. *When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.*

- C. *Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.*
- D. *Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.*
- E. *Within a Resource Protection District, the clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter shall be limited to one thousand (1,000) square feet.*
- F. *A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.*
- G. *When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.*

7.7 Structures with Water Access

7.7.1 Public Boat Launches and Water-Access Ways

All projects must be in compliance with the Natural Resource Protection Act (NRPA). Contact the Maine Department of Environmental Protection Bangor Office at 207.941.4570 or at 106 Hogan Road, Suite 6, Bangor ME 04401 for all information concerning NRPA.

A. Facilities Associated with Shorefront Subdivisions

Shorefront subdivisions may be permitted no more than one permanent launch or set of water-access ways, and one permanent dock. Any such facility must be accessible to all lots in the subdivision. The location of the facility must be identified on the subdivision plat and right of access must be covenanted in the deeds of all lots in the subdivision.

B. Maintenance of Facilities

Every application for a permit for a new or replacement launch, or expansion thereof, must contain a description of the procedures the applicant will follow to maintain the facility on an ongoing basis to minimize erosion, sedimentation, and transport of phosphorus into the water body.

C. Notification for Public Facilities

Public launches are allowed without a permit, providing the following notification occurs:

- (1) *At least 30 days before filing the notification, the applicant shall inform the Planning Board of the intent to file and mail notice to all landowners/lessees within 1,000 feet of the proposed project. At the time of notice, a draft notification form must be available for inspection. The notice must state how to obtain a copy of the draft notification, the anticipated date for filing of the notification, and a statement that public comments on the notification may be submitted. Unless this deadline is extended, any such comments must be submitted by the anticipated date of the filing of the notification.*
- (2) *The applicant may proceed with the proposed project 14 days after filing the notification unless within this time period the Planning Board informs the applicant in writing that issues have been identified regarding the adequacy of the project or that there may be an undue adverse impact on existing uses or resources in the project area. The board will determine if there is sufficient public interest in the project to warrant consideration of a public hearing on the notification. Within 60 days after the close of any public hearing, the board shall inform the applicant in writing of its determination. If the board determines that the project will not have an undue adverse impact on existing uses or resources in the project area, the notification will be accepted. If the notification is not accepted, the project will require a permit to proceed.*
- (3) *A notification expires 2 years from the date of acceptance by the Board.*

D. Design and Construction Standards

Unless otherwise indicated, the following standards apply to all launches:

- (1) ***Erosion Prevention and Control During Construction***
Eroded soil or fill material from disturbed areas must be prevented from entering a water body. Properly installed erosion control measures must be in place before the project begins. These erosion control measures must remain in place until the project area is permanently stabilized. Erosion and sedimentation control measures must comply with the Maine Erosion and Sediment Control BMPs (Maine Department of Environmental Protection, March 2003 or as revised).
- (2) ***Avoidance of Water Bodies***
No portion of a ramp or related facilities may be located in, on, or over wetlands, other than the water body being accessed. Parking areas, access roads, and paths must not be located in a stream, wetland, or other water body, except that an access roadway may cross a stream if requirements pertaining to water crossings, are met.

(3) **Maintenance of Vegetated Buffer**

Boat launches and associated facilities must be designed to minimize disturbance to the water body's vegetated buffer. A vegetated buffer zone at least 25 feet wide for public facilities (100 feet for private facilities) must be maintained or established between any parking area and the water body.

(4) **Runoff Diversion**

Parking areas, access roads, and paths must divert runoff away from the launch to an area where it will infiltrate into the ground or pass through a sedimentation basin before reaching the water body. For private facilities, the total land area above the normal high water mark that drains directly into the water body along the approach or from cut slopes must be no greater than 200% of the area of the ramp or launch lane above the normal high water mark.

(5) **Hand-carry Launch**

A hand-carry launch must meet the following specifications:

- (a) *The hand-carry launch area and access pathway must not be hard surfaced and must be constructed of gravel, rock, vegetation, or other natural erosion resistant materials;*
- (b) *The sloped portion of the launch above the normal high water mark must have a slope no greater than 18%;*
- (c) *The access path must have a maximum width of 6 feet and must have at least one bend to divert channelized runoff; and*
- (d) *A landing area that is cleared of obstructions must be no wider than 20 feet and must extend no more than 20 horizontal feet below normal high water mark. Filled or cut slopes at or below the normal high water mark must be protected with riprap.*

(6) **Washing**

No washing of tools, forms, or similar material may occur in or adjacent to the water body or wetland.

(7) **Machinery in Water**

Machinery may enter the water traveling or operating only on newly placed material or temporary mats and only when necessary to excavate or place material below the water level.

(8) **Debris**

Any debris generated during the work must be prevented from washing into the water and must be removed from the wetland or water body. Disposal of debris must be in conformance with the Solid Waste Law, 38 M.R.S., §1301 et seq.

NOTE: A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as a watercraft.

NOTE: A permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection for Shoreline Stabilization activities.

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. §480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

7.8 Wind Energy Generation Facilities

The Wind Energy Generation Facilities are contained exclusively within the WE Zone. It consists of all current facilities and roadways in the Zone. Any expansion or changes must come before the Planning Board and meet all standards required in the Rural, Limited Residential, Stream Protection, and Resource Protection Zones described in this Ordinance.

7.9 Wireless Communication Facilities

7.9.1 Wireless Communications Facilities (WCF) may be either free-standing or building-mounted.

A. A free-standing WCF tower shall be a monopole-type construction and shall not exceed one hundred seventy-five (175) feet in height.

B. A building-mounted structure shall not extend more than fifteen (15) feet above the primary roof line of the building upon which it is mounted.

7.9.2 In order to protect public safety, the minimum horizontal distance from the base of any freestanding tower to any property line, road, or residential structure shall be equal to one-half (1/2) of the height of the structure. A security fence at least eight (8) feet in height shall be installed to completely enclose the tower and any associated buildings or structures.

7.9.3 All WCF's shall be designed to facilitate co-location of services. Accommodation for co-location shall be demonstrated at the time of application.

7.9.4 No WCF shall commence construction without a commitment for occupancy from at least one communication service provider. If at any time a facility has not supported a communication service provider for a period of six (6) consecutive months, the Plantation may declare the facility abandoned and shall order its removal. If the facility tower has not been removed within ninety (90) days of such order, the Plantation shall contract to remove the tower and assess the cost to the property owner, said cost to become a lien against the property.

- 7.9.5 Visual impact of facilities shall be minimized, through choice of siting, design of the structure itself, or structural or vegetative buffering. The Kingsbury Comprehensive Plan has identified the Kingsbury Dam and Picnic Area as a High Value Scenic Resource Area. Any WCF proposed for placement within three (3) miles of this area shall provide a Scenic Resource Assessment and Mitigation Plan as part of the application process.
- 7.9.6 No signage shall be placed on the tower itself, except for warning signs at the base. Signs on supporting buildings and structures shall be limited to those identifying the facility, the owner and operator, and emergency contact information.
- 7.9.7 Lighting of towers and antennae shall be prohibited except as required by the Federal Aviation Administration.
- 7.9.8 In review of the application for a wireless communication facility, the Planning Board is specifically authorized to retain an expert in the field of RF engineering to review technical details of the application. The cost of this expertise shall be borne by the applicant through the technical review fee and such additional assessment as is necessary.

7.10 Essential Services

- 7.10.1 *Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.*
- 7.10.2 *The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.*
- 7.10.3 *Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.*

8: Performance Guarantees

8.1 Performance Guarantee

- 8.1.1 A guarantee of completion is required whenever an applicant proposes improvements that will be accessible to the general public, including but not limited to roads, commercial drives and parking lots, and public water systems.
- 8.1.2 A performance guarantee may also be required for the removal of facilities such as wind energy generation, wireless communication, or reclamation of gravel pits or other mineral extraction sites.
- 8.1.3 With submittal of the application for approval, the applicant shall provide a proposal for one of the following forms of Performance Guarantee. The guarantee must be for an amount adequate to cover the total construction costs of all required improvements and streets, taking into account the time span of the construction schedule and the inflation rate for construction costs. The type, conditions and amount of the Performance Guarantee shall be determined by the Planning Board with the advice of the Board of Assessors.

8.2 Conditional Agreement

- 8.2.1 The Planning Board at its discretion may permit the developer to enter into a binding agreement with the Plantation in lieu of financial performance guarantees. Such an agreement shall provide for approval of the plan on the condition that no lot may be sold or structure occupied until either:
 - A. It is certified by the Planning Board and the Road Commissioner or their agent that all the required improvements have been installed in accordance with this Ordinance and the Board's conditions of approval; or
 - B. A financial guarantee acceptable to the Plantation is submitted in an amount necessary to cover the completion of the required activities at an amount adjusted for inflation and prorated for the portion of any required improvements already installed.
- 8.2.2 All conditional agreements shall have a time limit for completion and shall be approved by the Planning Board and by the Board of Assessors prior to final review of the plan. Notice of the agreement and any conditions shall be noted on the plan which is recorded at the Piscataquis County Registry of Deeds.
- 8.2.3 Release from the agreement shall follow the procedures contained in Section 8.5.3.

8.3 Cash Bond

Cash Bond for the Establishment of an Escrow Account

- 8.3.1 A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to Kingsbury Plantation, a direct deposit into a savings account, or the purchase of a certificate of deposit naming the Plantation as owner. For any account established by the developer, Kingsbury Plantation shall be named as owner or co-owner, and the consent of the Plantation shall be required for withdrawal.
- 8.3.2 Any interest earned on the escrow account shall be returned to the developer unless the Plantation has found it necessary to draw on the account, in which case, the interest earned shall be proportionately divided between the amount returned to the developer and the amount withdrawn to complete the required improvements.

8.4 Performance Bond

Performance Bond Payable to the Plantation Issued by a Surety Company Licensed to Practice in the State of Maine and Approved by the Board of Assessors.

- 8.4.1 The Performance Bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the developer, and the procedures for collection by the Plantation. The bond documents shall specifically reference the development for which approval is sought.
- 8.4.2 An irrevocable letter or line of credit from a financial institutional licensed to practice in the State of Maine, establishing funding for the construction of the improvements, from which the Plantation may draw if construction is inadequate. An irrevocable letter of credit shall indicate that funds have been set aside for the construction of the development and may not be used for any other project or loan.

8.5 Guarantee Procedures

8.5.1 Contents of Guarantees

The Performance Guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part of or all of the Guarantee to the developer, and a date after which the developer will be in default and the Plantation shall have access to the funds to finish construction.

8.5.2 Final Approval of Guarantees

The performance guarantee submitted for final review shall have received approval from the Board of Assessors. All necessary agreements and other documents shall have been fully executed.

8.5.3 Release of Guarantees

Financial Performance Guarantees shall remain in effect for one year after completion of construction unless other arrangements are made, in writing, with the Planning Board or the Board of Assessors. Prior to the release of any part of the Performance Guarantee, the Planning Board shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer, that the improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

8.6 Default

If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plan specifications filed as part of the application, he or she shall so report in writing to the Board of Assessors, the Planning Board, and the developer or builder. The Board of Assessors shall take any steps necessary to preserve the Plantation's rights.

9: Definitions

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural. Definitions specific to the Floodplain Management Ordinance are contained within Appendix A.

Accessory structure or use - *A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.*

Adjacent grade - See Appendix A, Floodplain Management Ordinance.

Aggrieved party - *An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.*

Agriculture - *The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables, and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.*

Agricultural processing facility - A facility or operation, and associated site improvements or buildings, that is located on land where farm products are produced, and that processes raw farm products to increase their value, to reduce bulk, or to enable efficient transportation for sale or further processing. Agricultural processing facilities may include temporary or permanent structures, and may include worker housing. Agricultural processing facilities do not include agricultural management activities. The term is further defined as small-scale and large-scale agricultural processing facilities as follows:

Small-scale agricultural processing facility: An agricultural processing facility where all the raw farm products used in the processing are grown onsite or on lands owned or leased by the operator, and that utilizes no more than 2,500 square feet of gross floor area.

Large-scale agricultural processing facility: An agricultural processing facility where a majority of the raw farm products used in the processing are grown onsite or on lands owned or leased by the operator, and that utilizes up to 5,000 square feet of gross floor area.

Alteration - Dredging; bulldozing; removing or displacing soil, sand, vegetation or other materials; draining or dewatering; filling; or any construction, repair or alteration of any permanent structure. On a case-by-case basis and as determined by the Planning Board, the term "alteration" may not include:

- A. An activity disturbing very little soil such as installing a fence post or planting shrubs by hand;

- B. The addition of a minor feature to an existing structure such as a bench or hand rail; and
- C. The construction, repair or alteration of a small structure with minimal impact such as a nesting box, pasture fence, or staff gauge.

Aquaculture - *The growing or propagation of harvestable freshwater plant or animal species.*

Area of special flood hazard - See Appendix A, Floodplain Management Ordinance.

Basal area - *The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.*

Base flood - See Appendix A, Floodplain Management Ordinance.

Basement - *Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level. Also see Appendix A, Floodplain Management Ordinance.*

Boat launching facility - *A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.*

Building - See Structure. Also see Appendix A, Floodplain Management Ordinance.

Building envelope - The designated building site within a lot or, if one has not been designated, the area of buildable land within a lot, excluding areas unbuildable due to wetlands, steep slopes, legal setbacks, or other factors.

Bureau of Forestry - *State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.*

Campground - *Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.*

Canopy - *The more or less continuous cover formed by tree crowns in a wooded area.*

Code Enforcement Officer - See Appendix A, Floodplain Management Ordinance.

Commercial use - *The use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.*

Conversion of use - The alteration of a use or structure such that the use or structure constitutes a different use listing or defined term.

DBH - *The diameter of a standing tree measured 4.5 feet from ground level.*

Deer wintering area - An area regularly used by deer during winter for protection from deep snow, high winds, and low temperatures. Where not previously identified by the Maine Department of Inland Fisheries and Wildlife, a deer wintering area may only be identified by evidence of actual usage during winter months.

Development - A change in land use involving creation of multiple lots or the alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring. Also see Appendix A, FEMA ordinance.

Dimensional requirements - Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability - Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Driveway - A vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

Dwelling unit - See Structure, and see Residential Dwelling Unit.

Elevated building - See Appendix A, Floodplain Management Ordinance.

Elevation certificate - See Appendix A, Floodplain Management Ordinance.

Emergency operations - Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services - Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure - An increase in the footprint, floor area, or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - The addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

Family - One or more persons occupying a premise and living as a single housekeeping unit.

Farmland - Any area of five (5) acres or more that is classified as prime farmland or farmland of statewide or local importance by the Natural Resource Conservation Service, or which has been used in the production of agricultural products within the past five (5) years.

FEMA – Federal Emergency Management Agency

Flood or flooding - See Appendix A, Floodplain Management Ordinance.

Flood Insurance Study (FIS) - See Flood Elevation Study. Also see Appendix A, Floodplain Management Ordinance.

Floodplain or Flood-prone Area - See Appendix A, Floodplain Management Ordinance.

Floodplain management - See Appendix A, Floodplain Management Ordinance.

Floodplain management regulations - See Appendix A, Floodplain Management Ordinance.

Floodproofing - See Appendix A, Floodplain Management Ordinance.

Floodway - *The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.*

Floor area - *The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.*

Footprint - *The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.*

Forested wetland - *A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.*

Foundation - *The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.*

Freeboard - See Appendix A, Floodplain Management Ordinance.

Freshwater wetland - *Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:*

- 1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and*
- 2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.*

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent uses - *Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, boat building*

facilities, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, and uses that primarily provide general public access to inland waters. Also see Appendix A, Floodplain Management Ordinance.

Great pond - Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great pond classified GPA - Any great pond classified GPA, pursuant to 38 M.R.S. Article 4-A §465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

The great ponds classified as GPA located in Kingsbury Plantation include: Foss Pond (110 acres), Hilton Pond #1 (13 acres), Kingsbury Pond (390 acres), Unnamed Pond (15 acres) and Whetstone Pond (256 acres). Hilton Pond #2 (8 acres) and Little Pond (10 acres) are great ponds. Kingsbury Pond is located in both Kingsbury Plantation and Mayfield Twp., and Whetstone Pond is located in both Kingsbury Plantation and Blanchard Twp.

Ground cover - Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Hazard tree - A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Height of a structure - The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances.

Hillside – An area of two or more contiguous acres having a sustained slope of 15 percent or greater.

Historic structure - See Appendix A, Floodplain Management Ordinance

Home occupation - An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure - Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot

coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite - An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional - A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Licensed forester - A forester licensed under 32 M.R.S.A. Ch. 76.

Locally established datum - See Appendix A, Floodplain Management Ordinance.

Liquidation harvesting - 12 M.R.S.A. §8869, sub-§14

Lot area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Lot coverage - That portion of a lot which is covered by impervious surfaces, including all roofs, decks, patios, driveways, parking areas, and sidewalks, regardless of construction material.

Lowest floor - See Appendix A, Floodplain Management Ordinance.

Manufactured housing unit - A structural unit or units constructed in a manufacturing facility and transported on a chassis to a building site and designed to be used as a dwelling unit when connected to required utilities. The term includes both mobile homes and manufactured housing, but not travel trailers.

Manufactured home - See Appendix A, Floodplain Management Ordinance.

Manufactured home park or subdivision - See Appendix A, Floodplain Management Ordinance.

Marina - A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide

accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market value - *The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels. Also see Appendix A, Floodplain Management Ordinance.*

Mean sea level - See Appendix A, Floodplain Management Ordinance.

Mineral exploration - *Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.*

Mineral extraction - *Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.*

Minimum lot width - *The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.*

Minor improvements - Interior or exterior renovation that does not create additional floor area or lot coverage or add to the height of the structure.

Multi-unit residential - *A residential structure containing three (3) or more dwelling units.*

National Geodetic Vertical Datum (NGVD) - See Appendix A, Floodplain Management Ordinance.

Native – *Indigenous to the local forests.*

New construction - See Appendix A, Floodplain Management Ordinance.

Non-conforming condition - *Non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.*

Non-conforming lot - *A single lot of record in lawful existence which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.*

Non-conforming structure - *A structure which does not meet any one or more of the following dimensional requirements: setback, height, lot coverage, or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.*

Non-conforming use - *Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.*

Non-native invasive species of vegetation - Species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Normal high-water line - That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Normal maintenance and repair - Unless otherwise provided, work necessary to maintain an improvement, structure, or docking structure in its original or previously improved state or condition, as long as there is no expansion of a nonconforming structure and less than 50 percent of a structure is replaced. This includes general upkeep, such as painting, fixing portions of the structure that are in disrepair, or the replacement of sill logs, roofing materials, siding, or windows. In-kind and in-place replacement of decking or exterior stairs is considered to be normal maintenance and repair. Normal maintenance and repair shall not include reconstruction, or change in design, change in structure, change in use, change in location, a change in size or capacity, or any land use activity that is a shoreline alteration. Activities involving a permanent docking structure constitute normal maintenance and repair only when less than 50 percent of those portions of the permanent docking structure that are above the level of the water during normal high water are maintained or repaired.

North American Vertical Datum (NAVD) - See Appendix A, Floodplain Management Ordinance.

100-year flood - See Appendix A, Floodplain Management Ordinance.

Outlet stream - Any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

Performance guarantee - A financial or legal guarantee ensuring completion of development improvements to be used by the general public (including employees and customers) as required during development review, or a guarantee of future performance in reclaiming or de-commissioning a development with limited lifespan.

Person - An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Planning Board - The Kingsbury Plantation Planning Board.

Principal structure - A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

Principal use - A use other than one which is wholly incidental or accessory to another use on the same lot.

Public facility - Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent floodplain soils - The following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick	Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles	Podunk	Rumney	Saco
Suncook	Sunday	Winooski			

Recreational facility - A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational lodging facility - Site improvements, a building or group of buildings, or any part thereof, used, maintained, or held out to the public as a place where sleeping accommodations are furnished to the public for commercial purposes. The term includes, but is not limited to, commercial sporting camps, youth or group camps, back-country huts, rental cabins, outpost cabins, campgrounds, lodges, hotels, motels, inns, or any combination of these types of uses.

Recreational vehicle - A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system - A system intended to replace: 1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2) any existing overboard wastewater discharge.

Residential dwelling unit - A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Riprap - Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River - A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

River, stream or brook - Has the same meaning as in 38 M.R.S.A., §480-B, sub-§ 9.

Riverine - See Appendix A, Floodplain Management Ordinance.

Road - A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Sapling - A tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling - A young tree species that is less than four and one half (4.5) feet in height above ground level.

Service drop - Any utility line extension which does not cross or run beneath any portion of a water body provided that:

A. In the case of electric service:

1. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
2. The total length of the extension is less than one thousand (1,000) feet.

B. In the case of telephone service:

1. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or
2. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - The nearest horizontal distance from the edge of the property line, the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline - The normal high-water line, or upland edge of a freshwater wetland.

Sign - Any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity, or place and is visible from any roadway or other right-of-way. It does not include the flag, pennant, or insignia of any nation, state or town.

Significant groundwater well - A well or connected series of wells intended for the extraction of water from the ground which is designed to exceed 2,000 gallons of water per day.

Special flood hazard area - See Appendix A, Floodplain Management Ordinance.

Start of construction - See Appendix A, Floodplain Management Ordinance.

Storm-damaged tree - A tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Stream - A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the body of water becomes a river or flows to another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Structure - Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8. Also see Appendix A, Floodplain Management Ordinance.

Subdivision - A division of land subject to the authority of the Maine Subdivision Law, as defined in 30-A M.R.S. §4401.

Substantial damage - See Appendix A, Floodplain Management Ordinance.

Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals. Also see Appendix A, Floodplain Management Ordinance.

Substantial start - Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system - Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism,

or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. §414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained slope - *A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.*

Timber harvesting - *The cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 6.5.1, Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.*

Tree - *A woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.*

Tributary stream - *A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.*

Upland edge of a wetland - *The boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.*

Variance - See Appendix A, Floodplain Management Ordinance.

Vegetation - *All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.*

Violation - See Appendix A, Floodplain Management Ordinance.

Volume of a structure - *The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.*

Water body - *Any great pond, river or stream.*

Water crossing - *Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables*

as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - *A freshwater wetland.*

Wind energy generation facility (WEGF) - A structure or machinery capable of converting the kinetic energy of wind into electrical energy for residential or commercial purposes. A wind energy generation facility includes all structures, utilities, and connections associated with the conversion and delivery of energy.

Wireless communications facility - Any structure, tower or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communication services (PCS) or pager services. The term does not include ham radio facilities, antennae for governmental or emergency services uses, or residential parabolic antennae.

Woody vegetation - *Live trees or woody, non-herbaceous shrubs.*

Appendix A
FLOODPLAIN MANAGEMENT ORDINANCE
FOR
KINGSBURY PLANTATION, MAINE

FLOODPLAIN MANAGEMENT ORDINANCE
FOR
KINGSBURY PLANTATION, MAINE

ENACTED:

Date

EFFECTIVE:

Date

CERTIFIED
BY:

Signature

CERTIFIED
BY:

Print Name

Title

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Kingsbury Plantation, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Kingsbury Plantation, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Kingsbury Plantation, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the community.

The Town of Kingsbury Plantation has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

ARTICLE II - PERMIT REQUIRED

- 1) Permits shall be required for all proposed construction or other development in the community, including the placement of manufactured homes, so that the Code Enforcement Officer or Planning Board may determine whether such construction or other development is proposed within flood prone areas;
- 2) The Code Enforcement Officer shall review proposed development to assure that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

ARTICLE III - APPLICATION REVIEW AND DEVELOPMENT STANDARDS

- 1) The Code Enforcement Officer shall review all permit applications to determine whether the proposed development will be reasonably safe from flooding. If the proposed development is in a flood prone area, all development shall:
 - a) be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b) use construction materials that are resistant to flood damage;
 - c) use construction methods and practices that will minimize flood damage; and,
 - d) use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

- 2) The Code Enforcement Officer shall require new and replacement water supply systems within flood prone areas to be designed to minimize or eliminate infiltration of flood waters into the systems.
- 3) The Code Enforcement Officer shall require within flood prone areas:
 - a) new and replacement sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters;
 - b) on site waste disposal systems be located to avoid impairment to them or contamination from them during flooding.
- 4) The Code Enforcement Officer shall require new construction or substantial improvement of any structure within a flood prone area to have the lowest floor elevated to at least two feet above the highest adjacent grade if no base flood elevation is available. If base flood elevation data is available from state, federal, or other technical sources, the lowest floor shall be elevated one foot above the base flood elevation.
- 5) The Code Enforcement Officer shall require that buildings shall not be permitted which are partially or wholly over water.

ARTICLE IV - SUBDIVISION REVIEW AND DEVELOPMENT PROPOSALS

The Planning Board shall review subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals shall be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposals shall be reviewed to assure that:

- 1) all such proposals are consistent with the need to minimize flood damage within the flood prone area;
- 2) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
- 3) adequate drainage is provided so as to reduce exposure to flood hazards.

ARTICLE V - APPEALS AND VARIANCES

The Board of Appeals of Kingsbury Plantation may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- 1) Variances shall be granted only upon:
 - a) a showing of good and sufficient cause; and,

- b) a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 - c) a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 - d) a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - i) that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - ii) that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - iii) that the granting of a variance will not alter the essential character of the locality; and,
 - iv) that the hardship is not the result of action taken by the applicant or a prior owner.
- 2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
 - 3) Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - a) other criteria of Article III and Article V are met; and,
 - b) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
 - 4) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 - a) the development meets the criteria of Article V, paragraphs A. through C. above; and,
 - b) the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 - 5) Any applicant who meets the criteria of Article V, paragraphs A. through D. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
 - a) the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 - b) such construction below the base flood level increases risks to life and property; and,
 - c) the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to

use land located in a flood prone area and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a flood prone area.

6) Appeal Procedure for Administrative and Variance Appeals

- a) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
- b) Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- c) The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
- d) The person filing the appeal shall have the burden of proof.
- e) The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
- f) The Board of Appeals shall submit to the Code Enforcement Officer and Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
- g) Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE VI - ENFORCEMENT AND PENALTIES

- 1) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- 2) The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- 3) In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
 - a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 - b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 - c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

- d) evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
- e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE VII - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE VIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE IX - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Adjacent Grade - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Special Flood Hazard – in the absence of a Flood Insurance Study, Flood Hazard Boundary Map, or Flood Insurance Rate Map issued by the Federal Emergency Management Agency (FEMA), the areas of special flood hazard shall include, at minimum, the following: identified wetlands, low-lying areas along the shores of lakes and streams, areas subject to shallow flooding during intense storms, and areas known to have flooded historically.

Base Flood - means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - means any area of the building having its floor subgrade (below ground level) on all sides.

Building - see **Structure**.

Code Enforcement Officer - a person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Development - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

Elevated Building - means a non-basement building

- 1) built to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- 2) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters.

Elevation Certificate - An official form (FEMA Form 81-31) that:

- 1) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- 2) is required for purchasing flood insurance.

Flood or Flooding - means:

- 1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a) The overflow of inland or tidal waters.
 - b) The unusual and rapid accumulation or runoff of surface waters from any source.
- 2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Floodplain or Flood-prone Area - means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Freeboard - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a) By an approved state program as determined by the Secretary of the Interior, or
 - b) Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - means the lowest floor of the lowest enclosed area (including basement).

Manufactured Home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum.

National Geodetic Vertical Datum (NGVD) - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”.

New Construction - means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD)- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the Earth’s crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood - see Base Flood.

Riverine - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- 1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- 2) Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE X - ABROGATION

This Ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).